NASARAWA STATE FISCAL COMMITMENTS AND CONTINGENT LIABILITIES FRAMEWORK

Nasarawa Investment & Development Agency (NASIDA)

Prepared with technical support of

Contents

Acronyms/Abbreviations 4

1. Introduction 6

1.1. Overview of the FCCL Framework 6

1.2. Components of the FCCL Framework 7

1.3. FCCL Guidelines and PPP Framework 8

2. FCCL Guidelines 9

2.1. Introduction 9

2.1.1. Objectives 9

2.1.2. Applicable Policy, Legal and Regulatory Framework 9

2.1.3. Application of FCCL Framework 15

2.2. PPP Fiscal Liabilities and Risks 16

2.2.1. Fiscal Liabilities in PPPs 16

2.2.2. Other Fiscal Risks 17

2.3. FCCL Management 18

2.3.1. Structure of FCCL Management 18

2.3.2. FCCL Process Flow 22

2.3.3. Other Central Agency Responsibilities 24

3. FCCL Technical Guidance 25

3.1. Overview 25

3.2. FCCL Management During Project Development Stage 25

3.2.1. Fiscal Risk Management Process 25

3.2.2. Quantifying Fiscal Commitments and Affordability 31

3.3. FCCL Management During Project Implementation Stage 36

3.3.1. Risk Allocation 36

3.3.2. Constructing the Project Fiscal Risk Matrix (PFRM) 36

3.3.3. Developing the Project Fiscal Risk Register 37

3.3.4. Reporting and Decision Making 38

3.4. FCCL Management during Contract Management Stage 38

3.4.1. Monitoring 39

3.4.2. Accounting, Budgeting and Reporting PPPs 40

3.4.3. Budgeting for PPPs 40

3.4.4. Reporting and Recognizing PPP Liabilities 41

3.4.5. Disclosing PPP Liabilities 43

Appendix A: PFRAM Risks and Sub-Risks 44

Appendix B: Sample Risk Assessment Questionnaire 53

Appendix C: Legal Framework for Disclosure and Implications for PPP Disclosure 85

Appendix D: Summary of Specific Disclosures for PPP Projects 88

TABLES

Table 1: Relevance Laws and Regulations in Nasarawa State and their Impact to PPPs/FCCL Framework 11
Table 2: Examples of FCCL in PPP 18
Table 3: FCCL Management Across the Nasarawa State's PPP Process Cycle 20
Table 4: Specific Responsibilities of Central Agencies 24
Table 5: Risk Categories 26
Table 6: Likelihood of Risk 27
Table 7: Calculation of Risk Rating 29
Table 8: Optional Mitigation Strategies Based on Severity of Risk 29
Table 9: Determining Areas for Priority Action 30
Table 10: FCCL Register 31
Table 11: Methodologies for Quantifying Fiscal Commitments to a PPP Project 33
Table 12: Affordability Indicators 35
Table 13: Sample Project Fiscal Risk Matrix 37
Table 14: Project Fiscal Risk Register (PFRR) 38
Table 15: FCCL Oversight by NASIDA throughout the PPP Project Cycle 39
Table 16: Monitoring Information: FCs and Fiscal Risks 40
Table 17: Reporting Sample of FCs by Project 41

FIGURES

Figure 1: Nasarawa State FCCL Process 23
Figure 2: Six-step approach to Fiscal Risk Management 26
Figure 3: Assessing Fiscal Impact 28
Figure 4: Options to Determine Affordability 34

Acronyms/Abbreviations

AG	Accountant General
AO	Accounting Officer
CA	Contracting Authorities
CL	Contingent Liabilities
DMO	Debt Management Office
DMO	Debt Management Office Law (2020)
FCCL	Fiscal Commitments and Contingent Liabilities
FBC	Full Business Case
FC	Fiscal Commitments
FCCL Register	Fiscal Commitments and Contingent Liabilities Register
FGN	Federal Government of Nigeria
FRC	Fiscal Responsibility Commission
FRL	Fiscal Responsibility (Amendment) Law (FRL) 2019
GDP	Gross Domestic Product
IFI	International Financial Institutions
IPSAS	International Public Sector Accounting Standards
LTFP	Long Term Fiscal Planning
MAGA	Material Adverse Government Actions
MDA	Ministry, Department and Agencies
MFBP	Ministry of Finance, Budget and Planning
MTEF	Medium-Term Expenditure Framework
NASG	Nasarawa State Government
NASIDA	Nasarawa Investment & Development Agency
NPV	Net Present Value
NSPAL	Nasarawa State Public Audit Law (2021)
OBC	Outline Business Case
PDT	Project Delivery Team
PFF	Project Facilitation Fund

PFS	Pre-Feasibility Study
PFM	Public Financial Management
PFRAM	PPP Fiscal Risk Assessment Model 2.0
PFRM	Project Fiscal Risk Matrix
PFRR	Project Fiscal Risk Register
PIM	Public Investment Management
PO	Project Officer
PFML	Public Financial Management Law (2020)
PPP	Public Private Partnership
PPL	Public Procurement Law (2020)
RfP	Request for Proposals
SABER	State Action on Business Enabling Reforms
SIFMIS	State Integrated Financial Management Information System
TSA	Treasury Single Account
UKNIAF	United Kingdom Nigeria Infrastructure Advisory Facility
VfM	Value for Money

1. Introduction

1.1. Overview of the FCCL Framework

Fiscal Commitments and Contingent Liabilities (FCCL) frameworks are a crucial part of sound public financial management, as it enhances governments' ability to holistically anticipate potential financial risks and plan accordingly to protect their fiscal health. These FCCL Guidelines, which form part of Nasarawa State Government (NASG) FCCL Framework, are specifically designed to guide the government's systematic identification, assessment, quantification, monitoring and management of direct and contingent liabilities associated with Public Private Partnership (PPP) projects.

The absence of a standardized approach for identifying, mitigating and monitoring fiscal risks arising from PPP projects represents a significant vacuum in Nasarawa State's Public Financial Management framework. To this end, these Guidelines aim to fill gaps owing to (1) the seeming lack of clarity in the state's process for managing legacy and on-going fiscal commitments (FC) triggered by PPP agreements, (2) inadequate reporting and forecasting of potential fiscal risks; and (3) lack of consistent policies for assessing and monitoring the state's fiscal liabilities.

The need to develop and implement a robust FCCL framework for NASG has several key objectives.

a. **Risk Identification and Management:** The NASG currently lacks sophisticated tools and expertise required to evaluate the risks associated with PPPs. The FCCL framework will help to assess the potential financial exposure from guarantees, revenue shortfalls, demand risks, and other obligations that may arise during the project lifecycle.

b. **Enhanced Financial Discipline:** The FCCL framework mandates clear documentation and reporting of all fiscal commitments and contingent liabilities associated with PPPs. This transparency helps stakeholders, including the public, lenders and investing community, monitor government obligations and assess the state's financial health. Besides improving accountability in the management of public resources, this improves the state government ability to make informed decisions and maintain sustainable fiscal policies.

c. **Better Project Evaluation and Selection:** By incorporating a rigorous evaluation process for assessing fiscal commitments and contingent liabilities, the NASG can better prioritize projects based on their long-term fiscal impact, feasibility, and expected

value-for-money. This helps ensure that only financially viable and strategically important PPP projects are developed and implemented.

d. **Sustainable Financing and Budgeting:** The FCCL framework will assist in integrating PPP commitments into the state's broader fiscal planning and budgeting process. Accordingly, the NASG is able to account for future obligations, such as payments related to guarantees or subsidies, in their fiscal projections.

e. **Mitigation of Fiscal Risks:** The FCCL framework will encourage the use of risk mitigation measures such as project structuring, insurance, and contractual safeguards to manage and reduce exposure to contingent liabilities. This reduces the likelihood and impact of contingent liabilities materializing into actual fiscal costs.

f. **Boosting Investor Confidence:** Developing and operationalizing a robust FCCL framework assures investors that the state government has a systematic approach to assessing and managing the financial risks of PPP projects. This can lead to better financing terms and increased private sector participation in the state's infrastructure service delivery.

g. **Alignment with National Policies:** The Federal Government of Nigeria (FGN) has overarching guidelines for PPP fiscal risk management. A state-level FCCL framework helps ensure that practices of sub-national governments are consistent with national standards, enhancing overall fiscal stability.

h. **Capacity Building for Sub-National Government:** The framework will serve as a guide for continuous capacity development of relevant officials in financial analysis, risk assessment, PPP contract management, and in the use of globally-recognized fiscal risk management tools, improving the overall quality of project implementation and monitoring.

1.2. Components of the FCCL Framework

The FCCL framework comprises analytical tools to help NASG better understand its fiscal commitments and contingent liabilities arising from PPP projects. By providing a structured framework for analyzing the financial and risk implications, it supports the government's vision to manage fiscal exposure more effectively and make data-driven decisions about the feasibility and sustainability of PPP initiatives.

The FCCL Framework is divided into 2 main sections:

i **FCCL Guidelines**: which help ensure that the financial implications of the state's PPP projects are well-understood, managed, and do not pose undue risk to public finances; and

ii **FCCL Technical Guidance**: which introduces the Public Fiscal Risk Assessment Model, PFRAM, an analytical tool developed by the International Monetary Fund (IMF) and the World Bank Group (WBG), used for assessing fiscal costs and risks arising from PPP projects. It highlights the methodologies for identifying, assessing and allocating risks that generate direct and contingent liabilities. It also describes how PPP-related obligations can be integrated into the broader fiscal planning and ensure they fit within the government's fiscal targets.

In addition to the framework, an excel-based tool (the Long-Term Fiscal Planning Tool or LTFP Tool) and its user manual (the LTFP Tool Manual) will be developed to assist in the management of FCCL arising from the PPP projects. It is to be used in conjunction with the FCCL Framework.

1.3. FCCL Guidelines and PPP Framework

The FCCL Guidelines for PPP projects will operate alongside the state's PPP framework, which encompasses the set of rules, procedures, and institutional responsibilities that govern how the Nasarawa State government selects, implements, and manages PPP projects. Nasarawa state's PPP framework is documented in the Nasarawa State Investment and Development Agency (NASIDA) Law 2020.

Typically, a state's PPP framework includes the following key elements:

- ***Policy Guidelines***: Policies, processes and objectives for using PPPs to achieve public infrastructure or service goals.
- ***Legislation:*** Laws and regulations that provide the legal basis for PPPs, defining the roles, responsibilities, and obligations of the public and private sectors.
- ***Institutional Setup:*** Dedicated PPP units or agencies, governance structures, and clear roles for government bodies involved in PPP projects.
- ***Standardized Documents:*** Templates for contracts, risk-sharing agreements, and other documents that help promote consistency and clarity across projects.

Embedded within the PPP framework is the PPP process, which specifies the steps that PPP projects proceed through in order for them to be delivered. It provides the step-by-step

methodology for developing, procuring and implementing a specific PPP project, in line with the established PPP framework. Essentially, the PPP process operates within the confines of the broader PPP framework. Therefore, without a solid framework, the process can be inconsistent, lack clarity and be fraught with gaps that could compromise the PPP programme objectives. Conversely, a good framework is ineffective without a clearly defined and executable process to guide projects from conception through execution and hand-back.

2. FCCL Guidelines

2.1. Introduction

2.1.1. Objectives

The objective of the FCCL Guidelines is to provide a standardized approach for relevant agencies of the NASG and Contracting Authorities in identifying, assessing and managing fiscal commitments and contingent liabilities arising from PPP projects, thereby ensuring that the state government is able to balance the potential benefits of private sector involvement in public infrastructure with the need to maintain fiscal discipline and manage long-term financial risks.

As PPPs are alternative procurement methods used to deliver public sector projects, the Guidelines take into consideration the existing policy, legal and regulatory frameworks for achieving public infrastructure service delivery. This helps ensure that the Guidelines do not create a parallel framework for fiscal risk assessment or complicate the delivery of institutional responsibilities, but is rather complementary.

2.1.2. Applicable Policy, Legal and Regulatory Framework

This section summarizes the existing legal and regulatory frameworks for PPPs and Public Financial Management (PFM) in Nasarawa State and their relevance to the FCCL Guidelines. PPPs and PFM in Nasarawa state are influenced by a combination of federal/state laws, state-specific regulations and policies. These instruments guide the efficient and transparent management of public resources. However, a review of the instruments suggests duplication of roles by several agencies, highlighting the need for clarity and consistency in the state's overarching responsibility for PFM. Below is a list of applicable policies, laws, and regulations and their relevance to PFM and PPPs in Nasarawa State:

Table 1: Relevance Laws and Regulations in Nasarawa State and their Impact to PPPs/FCCL Framework

Instrument	Relevance	Impact
Constitution of the Federal Republic of Nigeria (1999, as amended)	The Nigerian Constitution provides the overarching legal framework for financial management in all states, including Nasarawa State. Sections relevant to PFM include the Appropriation Bill, Consolidated Revenue Fund, and Public Accounts. • The sections outline the roles of the National Assembly, State Houses of Assembly, and Executive arms in budget formulation, approval, and execution.	*Direct and contingent liabilities associated with PPPs may be incorporated into Appropriation Bills/Laws and have impact on public accounts.*
Nasarawa State Fiscal Responsibility (Amendment) Law (2019)	The law, which essentially derives from the Federal Fiscal Responsibility Act, 2007, mandates transparency, accountability, and sustainability in the management of public finances. • The state law sets out guidelines for budget preparation, debt management, and financial reporting. • It establishes a Fiscal Responsibility Commission (FRC) to ensure the state's financial resources are managed prudently. • The FRC's responsibilities include: ➢ Preparation of Medium-Term Expenditure Framework (MTEF) ➢ Ensuring the state's resources are managed prudently; and ➢ Securing greater accountability and transparency in fiscal operations • The MTEF shall contain an expenditure and revenue framework setting out aggregate expenditure projection for the state for each financial year in the next three financial years. • Section 12(1) of the FRL provides that "the estimates of aggregate expenditure and the aggregate amount appropriated by the House of Assembly for each financial	*PPPs with Viability Gaps (which often require government's co-financing) require that the government's financial responsibilities are appropriated for over a multi-year horizon, typically three to five years. Where applicable, the NASG should allocate corresponding funds in the MTEF.* *Fiscal risks and their impact on the medium-term budget are also incorporated into the MTEF.* *The law sets an annual public expenditure ceiling, which includes direct liabilities such as government's co-financing.* **The statutory responsibilities of the FRC are currently executed by the MFBP.*

Instrument	Relevance	Impact
	year shall not be more that the estimated aggregate revenue plus a deficit, not exceeding 5% of the estimated GDP or any sustainable percentage, as may be determined for each financial year"	
Nasarawa State Public Procurement Law	The State's Public Procurement Law (PPL), which applies to all procuring entities, seeks to promote transparency, efficiency, accountability and value for money in the use of public resources. This law established the Nasarawa State Bureau of Public Procurement (NSBPP), which oversees procurement activities to ensure value for money and reduce corruption. It also established the State Council on Public Procurement to consider and approve policies on public procurement. • The NSBPP is responsible for formulating the general policies and guidelines relating to public sector procurement for the approval of the Council. • It is also responsible for preparing and updating standard bidding and contract documents. • Section 56 of the law (which provides for disposal of public property) includes "Leases" as part of means of disposal of public assets.	*Although the law does not explicitly provide for PPPs, its reference to public sector procurement may present parallel implications for PPPs, being that PPPs are an alternative means of public sector procurement. Moreover, the law explicitly covers leases of state assets, which are similar to PPP-type concessions.*
Annual Appropriation Law	The Nasarawa State Annual Appropriation Law is passed each year by the State House of Assembly. • It legally authorizes the state government to spend public funds in accordance with the approved budget. • It details revenue estimates and expenditure allocations for the fiscal year.	*Government's upfront co-financing obligations need to be captured in annual appropriations, which are sometimes subject to political and budgetary changes, thereby creating uncertainties and generating fiscal risks. Government's default in a financial obligation may lead to contract by the private partner. The private partner may therefore require contingency mechanisms to mitigate risk of co-financing due to non-appropriation.*
Nasarawa State Debt Management Office Law (2020)	The law guides the management of public debt in Nasarawa State, including external and internal borrowing. It establishes the Nasarawa State Debt Management Office (DMO), which monitors and manages the state's debt portfolio to ensure sustainability.	*The Nasarawa State DMO is relatively new. Much of its statutory functions were historically performed by the Department of Debt Management, a department under the MFBP.*

Instrument	Relevance	Impact
	DMO's main functions include: • preparing and implementing a plan for the efficient management of the State's debt obligations at sustainable levels, • preparing a schedule of any other government obligations such as trade debts and other contingent liabilities and providing advice on policies and procedures for their management, • advising and proposing funding mechanisms for infrastructural projects that may be referred to it.	*Although the Commissioner of Finance acts as Chairman of the DMO's supervisory Committee, the Office has distinct functions that impact of fiscal aspects of PPPs and the FCCL guidelines. These are highlighted in its mandate to monitor and manage the state's debt obligations. It is noteworthy that the state's direct and contingent liabilities generated by PPPs are considered debt-like obligations.*
NASIDA Law (2020) FIRST SCHEDULE	The NASIDA law established NASDIA. Among other things, it: • Outlines state's PPP Process in its First Schedule. • Provides for Powers to issue guarantees in PART VIII – by the State Executive Council (SEC) upon NASIDA Board recommendation. • Established an Infrastructure Fund.	*Each phase of the PPP process contained in the NASIDA law contain fiscal implication, requiring either budgetary, reporting, controlling or general management of fiscal responsibilities.* *The Guidelines are expected to incorporate the institutional responsibilities for fiscal matters in the process.*
Treasury Single Account (TSA) Policy	Nasarawa State has adopted the TSA policy to consolidate government revenue into a single account. • The policy enhances transparency, reduces leakages, and improves the monitoring of public funds.	*This fosters clearer financial reporting, which enhances the credibility of government fiscal commitments to PPPs.* *Moreover, by having real-time access to its financial position, the NASG is better able to plan and honour its financial obligations such as VGF. The private partner is also better assured that the NASG can meet its financial commitments to PPPs.* *However, TSA policy mandates that all government-related revenues are centralized. This can pose a conflict with the operational independence of Special Purpose Vehicles (SPV), especially in user-pay PPPs, where the private partner requires autonomy in revenue collection.*
Nasarawa State Public Audit Law (2021)	The Audit Law provides the legal basis for the activities of the Nasarawa State Auditor-General. • It requires the Auditor General to submit an estimate of the state's revenues and expenditures to the House of Assembly	*The law facilitates continuous monitoring of PPP projects by the Auditor-General to ensure that they remain aligned with contractual and fiscal obligations.*

Instrument	Relevance	Impact
	at least 120 days before the start of each year. • It mandates the audit of public accounts and the preparation of audit reports, ensuring accountability in the use of public resources.	
State Integrated Financial Management Information System (SIFMIS)	Nasarawa State has implemented the SIFMIS to automate financial management processes, including budget preparation, accounting, and reporting. • It aims to improve the accuracy, efficiency, and transparency of financial transactions.	
International Public Sector Accounting Standards (IPSAS)	Nasarawa State has adopted the International Public Sector Accounting Standards (IPSAS). • IPSAS are accounting standards created by the International Public Sector Accounting Standards Board (IPSASB) to improve financial reporting in the public sector. • The goal of IPSAS is to make financial reporting more transparent and credible, so that users can hold public-sector entities and governments accountable.	

UKNIAF

Consultations were held with relevant NASG stakeholders[1] to gather diverse perspectives on status of implementation of the existing FCCL and PPP frameworks, with a view to ensuring policy coherence, increasing stakeholder support and ensuring compliance with best practices on framework development. The following are key findings from the consultations:

a. **Need for efficient coordination:** There is a clear need for coordination among the various institutions responsible for public financial management and the PPP process in general. This requires the clear definition institutional roles within the FCCL guidelines.
b. **Need to align process for Debt Sustainability Assessment (DSA):** While the DMO conducts DSA prior to advising the NASG on contracting debt obligations, DSA has been limited to government's conventional debts, with the DMO having no visibility on PPP-related debt obligations. This presents a significant gap in the state's assessment of debt sustainability.
c. **Limited institutional and human capacity:** Key institutions, notably DMO and most Contracting Authorities have little to no PPP experience, thereby limiting their abilities to initiate or manage PPP projects. As CAs are empowered to undertake PPP projects, their limited capacity poses risk to the quality of PPP project appraisal, transaction structuring and contract management.
d. **Inefficient processes:** Assessing fiscal risks associated with PPP projects require the use of efficient tools and processes. The DMO, which historically operated as the Department of Debt Management under the MFBP, has not evolved its processes to suit the sophistication required for effective PPP project analysis.
e. **Standardization of contracts:** the Office of the Attorney-General of the state leads in the drafting and review of PPP contracts. However, it is not clear how risks identified and assessed at the PPP feasibility stage are incorporated into the contracts. As contracts typically contain fiscal commitments and contingent liabilities (e.g. from compensation and termination clauses), there needs to be a clear process for assessing fiscal risks embedded in PPP contracts.

2.1.3. Application of FCCL Framework

The FCCL Framework will be implemented across all PPP projects developed and implemented under the State's PPP framework. All PPP projects executed prior to the coming into force of the PPP Law will also be reviewed for FCCL, with the purpose of managing their FCCL impacts.

[1] Consultations conducted on 20th November, 2024

The FCCL guidelines is a dynamic document that will be refined and revised periodically as the state's PPP program evolves. Along with the technical guidance, the FCCL framework provides more detailed technical guidance for the identification and assessment of FCCL through project identification and development stages as well as their monitoring and reporting across a PPP project's lifecycle.

2.2. PPP Fiscal Liabilities and Risks

PPPs are collaborative arrangements where the public sector engages with private entities to finance, build, and operate infrastructure projects or deliver public services. While PPPs can offer several advantages, such as leveraging private sector resources, efficiency while sometimes sharing the financial burden, they contain inherent fiscal liabilities and risks for the government. Typical liabilities and risks associated with PPPs are expressed in this section.

2.2.1. Fiscal Liabilities in PPPs

Fiscal liabilities in the context of PPPs refer to the financial commitments (FC) and obligations that the government assumes when entering into a PPP agreement. They can be classified into two categories:

- A **direct liability:** These are explicit and legally binding obligations that the government must fulfill as part of the PPP agreement**.** Examples of such direct liabilities include:
    - *Upfront "viability gap" payments* – an up-front co-financing responsibility (often paid out as the project's construction phase progresses);
    - *Availability Payments:* Periodic payments made during the operations phase by the government to the private partner based on the availability and performance of the infrastructure or service. The payment may be adjusted with bonuses or penalties related to performance;
    - *Shadow tolls or output-based payments* – a government payment or subsidy per unit or user of a service. For example, per vehicle kilometer driven on a PPP highway where the government, rather than the user, makes payment to the private sector service provider.
- A **contingent liability (CL)** is an obligation that arises from an uncertain future event (i.e. one that may or may not occur) outside the control of the government. CLs are not explicitly recognized upfront but may materialize under certain circumstances. Their occurrence (trigger event), value, and timing of a payment may all be unknown or

cannot be definitively determined. Contingent liabilities under PPP contracts can include:

- *General Guarantees* – payments on specific risk variables e.g. exchange rate, revenue, inflation, prices and traffic, force majeure, termination payments and credit guarantees, among others;
- *Compensation clauses* – for example, a commitment to compensate the private party for damage or loss due to certain, specified, uninsurable force majeure events;
- *Termination payment commitments* – a commitment to pay an agreed amount should the contract expire or is terminated due to default by the public or private party. The amount may depend on the circumstances of default; and
- *Debt guarantees or other credit enhancements* – a commitment to repay part or all of the debt used to finance a project in the event that the private borrower does not repay it. The guarantee could cover a specific risk or event. Guarantees are used to provide security to a lender that the loan will be repaid.

Most FCs are explicitly specified in PPP agreements. However, FCs can also come from **implicit sources**. For example, a letter of support for a specific project may be considered a type of guarantee for some stakeholders. Also, political or socially sensitive projects may be expected to be rescued by government in the event of financial distress.

Additionally, an increase in existing obligations or creation of new obligations may arise from contract adjustments and renegotiations. These may significantly adjust (upwards or downwards) the costs of the projects and the payments to be made by Government.

2.2.2. Other Fiscal Risks

Other sources of fiscal risks and their levels of liabilities include:

- **Liabilities of government owned off-takers:** if a commercial but government owned entity (such as a power or water utility) contracts with a private generator or bulk water supplier, there are two levels of liability.
  - The liability of the government-owned entity. This must be recorded by the entity in question and may be consolidated into whole-of-government financial reporting in some cases; and

- Government liabilities to make good if the government-owned off-taker defaults (this may be an explicit or implicit contingent obligations).

Table 2: Examples of FCCL in PPP

Type of Project	Fiscal commitment	Contingent liabilities	
		Payment and Termination	Other fiscal risks
Toll road	• Upfront co-financing • Service payment adjusted by macroeconomic parameters and contingent events	• Revenue or traffic guarantee • Termination payment in case of concessionaire or contracting authority default, or force majeure.	• Change of scope that modifies the service payment. • Compensation for imposed decrease in toll rates due to social unrest
Roads Annuity Program	• Availability payment adjusted by macroeconomic parameters and contingent events	• Termination payment in case of concessionaire or contracting authority default, or force majeure.	• Disputes on land acquisition or resettlement • Change of scope or governance
Hydroelectric Dam Power Plant	• Viability Gap Funding	• Take or pay commitment from public utility • Termination payment	• Change in hydrological conditions • Renegotiation
Students' accommodation	• Availability payments	• Guarantee on occupation • Termination payment	• Change in university governance

In summary, while PPPs can be effective in delivering public infrastructure and services, they require careful consideration of fiscal liabilities and risks. The Guidelines facilitate the adoption of robust planning, effective risk management strategies and transparent reporting, to ensure that PPPs deliver value for money without imposing undue fiscal burdens.

2.3. FCCL Management

2.3.1. Structure of FCCL Management

Most phases of the PPP cycle are iterative. Therefore, an adequate identification and assessment of FCs and risks during the project development stage will inform government's decisions on the project's financial structure, risk allocation, and approval of the project.

Managing and controlling liabilities takes place in all PPP phases of planning, budgeting development, implementation and contract management. The Table below illustrates the Nasarawa State's PPP process, the corresponding phases where FCCL typically arise and institutional responsibilities.

Table 3: FCCL Management Across the Nasarawa State's PPP Process Cycle

Project Development Stage

Project Implementation Stage

Phase	FCCL Context	Institutional Responsibility
Project identification and selection (Solicited or Unsolicited Projects)	• The technical scope of a selected project is defined, including a detailed description and requirements of its operational components. • The economic sense and soundness of the project is tested. • The project is screened the project for PPP suitability, i.e. to test whether the project has the potential to be developed as a PPP	**Contracting Authority/ The Ministry of Finance, Budget and Planning (MFBP)**
Feasibility study	• FCCL assessment required to identify likely fiscal risks, for example, demand for the services, land availability risk, comparison of likely revenue, and likely costs leading to a funding gap. • Explicit quantification of all fiscal obligations with an assessment of affordability for all projects considered suitable to be procured as PPPs. • Ensuring that direct liabilities can be accommodated within budgetary limits and that CLs are provided for. • Determining and confirming affordability and sustainability of FCCL. • Ensuring that the preliminary contract structure reflects acceptable risk allocation.	**Contracting Authority (utilising technical guidance "PFRAM" tools and guided by Appendices A and B).**
Approval	• Ensuring that the use of government resources (which take the form of liabilities) are focused on policy priorities; represent value for money; and are consistent with applicable public financial management strategies. • Confirming that FCCL are appropriately budgeted and accounted for and consistent with applicable laws and regulations such as the	**NASIDA/MFBP, Debt Management Office (DMO)**

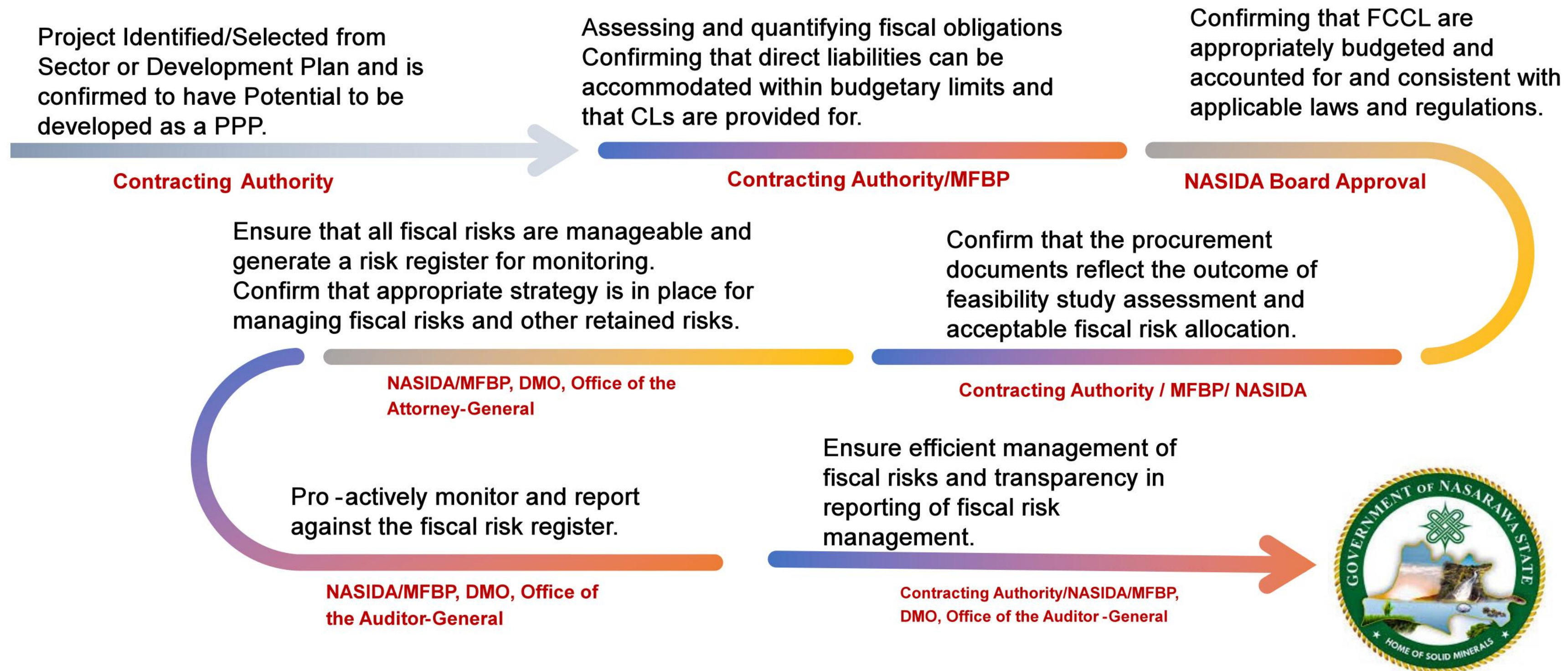
Contract Management Stage

	Appropriations Law, Fiscal Responsibility Law, etc.	
Procurement	• Confirming that the procurement documents reflect the outcome of feasibility study assessment with regards to fiscal obligations, and that bidders are required to explicitly assume the risks allocated to private sector parties. • Ensuring that draft PPP contract does not materially deviate from Value for Money (VfM) considerations and acceptable financial/fiscal risk allocation.	**Contracting Authority / MFBP/ NASIDA**
Contract award	• Ensuring that all fiscal risks are manageable and generate a risk register for monitoring. • Confirming that appropriate strategy is in place for managing fiscal risks and other retained risks.	**NASIDA/MFBP, DMO, Office of the Attorney-General**
Construction/Operations Phase	• Pro-active monitoring and reporting against the fiscal risk register. • Ensuring efficient management of fiscal risks and transparency in reporting of fiscal risk management	**Contracting Authority/NASIDA/MFBP, DMO, Office of the Auditor-General**

UKNIAF

2.3.2. FCCL Process Flow

Figure 1: Nasarawa State FCCL Process



2.3.3. Other Central Agency Responsibilities

While the Contracting Authority bears primary responsibility over FCCL assessment and management (through efficient use of fiscal risk management tools), central agencies, including the MFBP, DMO, the Office of the Accountant-General and the Office of the Auditor-General, share statutory oversight responsibilities in the broader PFM framework.

Table 4: Specific Responsibilities of Central Agencies

FCCL Function	Objectives	Role/ Responsibility
Monitoring	• To monitor and act on emerging issues and, if necessary, budget for liabilities • To help government track its exposure to fiscal risks from year to year, and improve its ability to take action to reduce the cost and/or likelihood of an event triggering a payment.	**MFBP, DMO, Office of the Auditor-General**
Budgeting	• To ensure resources are available to make payments promptly when required, improving credibility and clarity as to how costs of liabilities will be borne, and mitigating the fiscal impact. • Establish a well-defined system for budgeting and paying for liabilities will ensure the government has the resources available to meet its obligations and mitigate the fiscal or budgetary impact of contingent liabilities.	**MFBP, Office of the Accountant-General**
Disclosure	• To improve accountability for decision makers, and increase transparency of the government's commitments to third parties (such as credit agencies and lenders). • Reporting on exposure to liabilities through the budget and government accounts to increase transparency and improve the accuracy and completeness of information available to external parties.	**DMO, Office of the Auditor-General**
Mitigation	• To help reduce the cost to government of bearing contingent liabilities by reducing the likelihood or cost of the occurrence of those liabilities. • Continuous monitoring of exposure to contingent liabilities from PPP projects, and actively managing that exposure where possible, by identifying and taking action on emerging issues.	**DMO, MFBP, Office of the Auditor-General**

3. FCCL Technical Guidance

3.1. Overview

The purpose of the technical guidance is to set out the analytical process for managing FCCL during the PPP project life cycle.

3.2. FCCL Management During Project Development Stage

The project development stage covers all the steps taken to select, prepare and appraise a potential PPP project. This section sets out:

- The process for Fiscal Risk Management (**section 3.2.1**); and
- Quantifying Fiscal Commitments and Affordability (**section 3.2.2**).

Both activities will help authorities to take well-informed decisions over the project.

3.2.1. Fiscal Risk Management Process

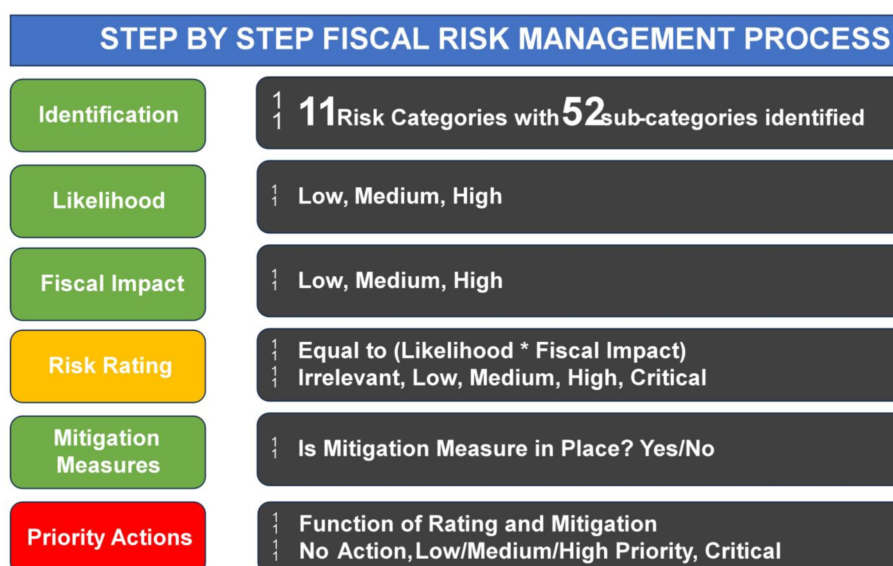
The PFRM 2.0, developed by the International Monetary Fund (IMF) and the World Bank Group (WBG), is an analytical tool to assess fiscal costs and risks arising from PPP projects. It has been modified for use by Contracting Authorities on a project-by project basis. As a dynamic tool, it can be continuously updated as project conditions change.

PFRAM supports the identification, assessment, and mitigation of common fiscal risks from each specific PPP project. The fiscal risk matrix, which is also prepared on a project-by project basis, is a tool to formalize the CA’s assessment of the various fiscal risks of a project, including those specified and unspecified in the contract.

The overall assessment of fiscal risks of a PPP project follows a six-step approach, as summarized in Figure 1. With the tool’s guidance, the CA provides required information to proceed through the first three steps of identifying the risk, determining the likelihood of the risk, and assessing its potential fiscal impact (**green**). Based on this information, in the fourth step, PFRAM automatically generates a risk rating (**amber**).

Based on the risk rating and with the user providing information on mitigation measures in the fifth step (**green**), PFRAM provides a sense of the priority of required actions (sixth step, **red**).

Figure 2: Six-step approach to Fiscal Risk Management



Source: PFRAM 2.0

1. Identifying Fiscal Risks

In a first step, the PFRAM 2.0 risk matrix assists the Contracting Authority in identifying the main fiscal risks often found in PPP projects. Based on the World Bank's PFRAM 2.0 instrument, eleven (11) major categories of risks and fifty-two (52) subcategories are to be captured in the Project Fiscal Risk Register (PFRR). The main risk categories, as well as the subcategories are presented in **Table 5**. **Appendix A** presents a detailed illustration of risks and sub-risks. **Appendix B** provides a detailed questionnaire as to how these risks should be assessed by a CA (or Transaction Advisor appointed for the project).

The CA should focus on those risks that may have significant fiscal implications.

Table 5: Risk Categories

S/N	Main Risk Category	Number of Risks Subcategories
1	Governance Risks	3 detailed risks
2	Construction Risks	19 detailed risks
3	Demand Risks	10 detailed risks
4	Operation & Performance Risks	7 detailed risks
5	Financial Risks	4 detailed risks

6	Force Majeure Risks	No Subcategories
7	Material Adverse Government Actions (MAGA)	No subcategories
8	Change in Law	No subcategories
9	Rebalancing of Financial Equilibrium	3 detailed risks
10	Renegotiation Risks	No subcategories
11	Contract Termination Risks	2 detailed risks

After identifying the relevant risks for a PPP project, the CA should assess the following:

2. **Likelihood of Risk Occurring**

What is the likelihood of such risks materializing in the future? The CA does not need to be overly precise in this estimate; it is sufficient to identifying whether the likelihood is **low, medium, or high**. A number of factors can help determine the likelihood. Table 6 illustrates this:

Table 6: Likelihood of Risk

SCALE	LIKELIHOOD
Low	▪ Very unlikely but not negligible ▪ Would require highly unusual circumstances
Medium	▪ Likely and possible ▪ Not unprecedented
High	▪ Very likely, almost certain ▪ Extensive precedents

3. **Fiscal impact**

After identifying and categorizing the relevant risks for a PPP project, the CA (evaluator) should assess their fiscal impact. Risk is assessed quantitatively and qualitatively.

Quantitative Assessment:

- Estimate potential costs and financial impacts of risks materializing. This involves creating scenarios to calculate possible fiscal exposures.

- Use financial modeling tools to simulate impacts on the project's cash flow and government budgets.

Qualitative Assessment:

- Assess risks that are difficult to quantify, such as political or regulatory risks. Qualitative scoring (e.g., low, medium, high) can be used based on expert judgment.

Evidently, the most critical output when looking at FCCL is the cost of risk occurrence. It is also the most difficult to predict as most fiscal risks could have varying impact depending on how they materialize. The Contracting Authority should evaluate the potential fiscal impact of a particular risk in a holistic manner from a quantitative perspective, providing as much information as possible to support the assessment of low, medium, or high. For instance, a quantitative assessment could be made by comparison with the state GDP or with the project costs. Frome a qualitative perspective, the fiscal implications of governance risk materializing could be reflected also in terms of the government's loss of reputation, efficiency, availability, and transparency. **Figure 2** provides an example of fiscal impact scale rating. The following presents a guide:

Figure 3: Assessing Fiscal Impact

Scale	Value	Fiscal Impact
Low	< 0,1% of GDP or < 5% of CAPEX	• Impact on government deficit and debt lower than X % of GDP (accumulated construction cost of the asset) • Minimal damage to government's reputation, service availability, and operation
Medium	0,1%-0,2% of GDP or 5%-25% of CAPEX	• Impact on government deficit and debt between X% and Y% of GDP (accumulated construction cost of the asset) • Limited damage to government's reputation, service availability, and operation
High	>0,2% of GDP or >25% of CAPEX	• Impact on government deficit and debt above Y % of GDP (accumulated construction cost of the asset) • Significant damage to government's reputation, service availability, and operation

4. **Risk rating**

Based on the CA's input, PFRAM 2.0 generates a risk rating to determine the **severity of the risks** being assessed. In this step, the likelihood and the fiscal impact are put together to estimate the overall risk rating (typically called the **severity of the risk**). This is done by combining the likelihood and fiscal impact, as shown in **Table 8**. Risks assessed as having a high likelihood and a high fiscal impact, would be regarded as "critical" (and highlighted automatically in the file in deep red). A "high" risk rating would be the result of a high

likelihood and a medium fiscal impact, as well as a medium likelihood and a high fiscal impact (and highlighted with a clear red). Following a similar logic, risks would be assessed as “medium” (orange), “low” (green), or “irrelevant” (light green). PFRAM 2.0 automatically generates a formula-based risk rating assessment and colour coding based on the CA’s inputs for likelihood and fiscal impact.

Table 7: Calculation of Risk Rating

Risk Rating = Likelihood x Fiscal Impact				
Fiscal Impact	High	Medium	High	Critical
	Medium	Low	Medium	High
	Low	Irrelevant	Low	Medium
		LOW	MEDIUM	HIGH
		Likelihood		

Source: PFRAM 2.0 User Manual

5. Mitigation Measures

PFRAM 2.0 risk matrix enables the CA to record existing mitigation measures and assists in identifying potential mitigation measures. Possible mitigation measures vary with the risks. For example, in financial risks, a subcategory deals with the risks of the private partner not being able to cope with excessive interest rate volatility. In this case, PFRAM 2.0 suggest a typical mitigation measure: “*Proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project. Establishing adequate qualification requirements, bid bonds and performance bonds will discourage adventures from bidding for PPPs.”* The **Table** below provides option of mitigation strategies.

Table 8: Optional Mitigation Strategies Based on Severity of Risk

Severity	Mitigation Strategy
Critical Risks	• Establish Contingency Reserves and allocate specific budgetary reserves or contingency funds to address immediate fiscal shortfalls or unexpected expenditures. • Implement stringent fiscal rules such as debt ceilings or balanced budget requirements to maintain fiscal discipline.
Medium Risks	• Regularly monitor fiscal indicators and provide transparent reporting on the state of fiscal risks to identify early warning signs. • Incorporate flexibility in budget planning to reallocate funds if medium

	risks materialize without causing major disruptions. • Gradually build up fiscal buffers such as sovereign wealth funds to provide financial support during downturns.
High Risks	• Develop medium-term fiscal frameworks (MTFFs) that incorporate potential high-risk scenarios and outline policy responses. • Implement expenditure ceilings and enhance budgetary controls to avoid overspending. • Regularly assess and report on contingent liabilities, such as government guarantees and consider setting up Contingent Liability Funds to cover these liabilities if and when they materialize.

6. Determination of Priority Actions

Based on the risk rating and consideration of optional mitigation measures in place, a determination of priority of the required actions is to be undertaken as demonstrated in **Table 10**. The action helps the CA to decide what to fix. As a general rule, the more severe risks—those with a high rating—should be addressed first. Addressing the less important risks, even if they are an easy fix, does not improve the overall risk profile of the project and does not reduce the risk for the government. Not all risks are worth addressing, and some loss for government is not only expected but admissible, based on the cost of fixing the issue.

PFRAM 2.0 identifies priority actions by looking at both risk rating and mitigation measures, as shown in Table 10. Those risks assessed as irrelevant would never trigger a priority action, regardless of whether mitigation measures are in place or not (color-coded in light green). On the contrary, risks rated as critical, paired with no mitigation measures in place, would result in the need to implement a "critical" priority action (deep red); the priority would be considered a "high priority" if mitigation measures exist (light red).

Table 9: Determining Areas for Priority Action

Priority action = Risk rating x Mitigation measure						
Mitigation measure	NO	No action	Medium priority	High priority	High Priority	Critical
	YES	No action	Low Priority	Medium priority	Medium priority	High Priority
		Irrelevant	Low	Medium	High	Critical
		Risk Rating				

Depending on the stage of the project cycle, risks identified as areas for priority actions can be addressed (1) by changing the design of the project to avoid the risk—this is only relevant before the PPP is contracted; (2) by introducing additional mitigation measures in place; or (3) by creating fiscal space to absorb the potential fiscal cost if the risk materializes.

3.2.2. Quantifying Fiscal Commitments and Affordability

As discussed in **Section 2.2.1**, FCCL comprises direct and contingent financial liabilities. The direct liabilities include upfront payment, VGF and availability payments. The universe of contingent liabilities is more diverse, primarily comprising Explicit Contingent Liabilities (guarantees, termination payments and compensations; Implicit Contingent Liabilities, which are not explicitly stated in the PPP contract but may arise due to political, economic, or social pressures.

All direct and indirect liabilities shall be consolidated in the FCCL Register (**Table 11**). The FCCL Register contains the type of liability, description of adjustment factors and trigger events, and the location (which will depend on the stage of the project).

Table 10: FCCL Register

Fiscal Commitment	Type of fiscal commitment/Definition	Adjustment factors/Trigger events	Location
Project X			
Payment 1	**Direct** Explain payment concept, periodicity, and form of calculation	Detail adjustment factors and trigger events if apply	Specific location where this information was taken (Feasibility Study, PPP Contract, Letter of Support, etc.) -
Payment 2	**Contingent** Explain payment concept, periodicity, and form of calculation		
Payment 3	-	-	-

Source: CPCS

3.2.2.1. Quantifying Fiscal Commitments to a PPP Project

The government's fiscal commitments – both direct and contingent – will be established by the PPP contracts. The value of direct liabilities will be relatively simple to quantify. In many cases its value will be explicitly expressed in the contract. Valuing contingent liabilities is more complicated and requires a good understanding of both the size of the potential liability and the likelihood of its occurring.

Direct Liabilities

The value of the direct fiscal commitments can be estimated from the project financial model prepared during the project development stage. The value of the direct fiscal contribution required is usually the difference between the cost of the project (including a commercial return on capital invested) and the revenue the project can expect to earn from non-government sources such as user fees[2]. The fiscal cost can be measured in different ways:

A. **Estimated Payments in Each Year:** The amount that the government expects to have to pay in each year of the contract, given the most likely project outcomes. This is the most useful measure when considering the budget impact of the project; or

B. **Net Present Value of Payments:** If the government is committed to a stream of payments over the lifetime of the contract such as availability payments it is often helpful to calculate the net present value of that payment stream. This measure captures the government's total financial commitment to the project, and it is often used if incorporating the PPP in financial reporting and analysis (such as debt sustainability analysis)[3].

Contingent Liabilities

Assessing the cost of contingent liabilities is more difficult than for direct liabilities, since the need for, timing and value of such payments are uncertain. Broadly speaking, there are two possible approaches[4]:

A. **Scenario Analysis:** This involves making assumptions about the outcome of any events or variables that affect the value of the contingent liability, and calculating the cost given those assumptions. For example, this could include working out the cost to the government in a "worst case" scenario, such as default by the private party at various points in the contract. It could also include calculating the cost of a guarantee on a particular variable, for instance demand – for different levels of demand outturns; and

B. **Probabilistic Analysis:** An alternative approach is to use a formula to define how the variables that affect the value of the contingent liability will behave. A combination of mathematics and computer modeling is then used to calculate the resultant costs. This enables analysts to estimate the distribution of possible costs, and then calculate measures such as the median (most likely) cost, the mean (average) cost,

[2] The APMG Public Private Partnership (PPP) Certification Guide: Establishing a PPP Framework

[3] Harrison (2010) Valuing the Future: The Social Discount Rate in Cost-Benefit Analysis. Australian Government Productivity Commission.

[4] Infrastructure Australia Guidance Note (2008) National Public-Private Partnership Guidelines Volume 4: Public Sector Comparator Guidance.

and various percentiles (for example, the range of values within which the cost is 90 percent of the time).

Table 12 illustrates the methodologies for quantifying fiscal commitments to a PPP project.

Table 11: Methodologies for Quantifying Fiscal Commitments to a PPP Project

FCCL	Estimate	Function of available information
Direct Liabilities		
Upfront (Co-financing) payments	- Annual cost over life of project	- Base Case (Most likely project outcomes)
Availability payments	- Net Present Value of payment stream for the duration of agreement.	- Using an appropriate discount rate
Contingent liabilities		
Revenue guarantee	- Estimated annual cost over life of project - Estimated present value of payment stream for the period of agreement	- Scenario analysis - Qualitative analysis of likelihood of reaching trigger values - Probability of occurrence
Debt guarantee		
Guarantee over annual payment by state-owned enterprise, local or subnational government		
Termination payment	- Maximum value	
Other fiscal risks		

3.2.2.2. Assessment of Affordability

With the estimations of fiscal costs, the government can now determine if the project is affordable. This should be undertaken as part of the feasibility studies.

The three common instruments used to check affordability are:

1. Comparing annual cost estimates against the projected budget;
2. Assessing the impact on debt sustainability; and
3. Introducing limits on PPP commitments.

Figure 4: Options to Determine Affordability

The first instrument entails the CA and NASIDA checking whether the project is aligned with budget constraints and priorities. Verifying that the FCs are affordable within the budget is the primary step. This is achieved by assessing if the commitments allow the CA to achieve their fiscal targets or surplus i.e. does the CA's annual budget allocation accommodate the cost of FCCL.

It should be noted that this step needs to be done in line with the overall PPP framework, i.e. verification that the FC estimations allow for positive social benefits (pass the cost-benefit analysis). Also, the affordability analysis must be consistent with the overall liability and fiscal risk management of the MFBP.

FCs from PPPs are considered debt-like obligations. Hence, the Nasarawa State DMO should treat such obligations within the overall government liabilities and fiscal management framework. PPP commitments should therefore be included in debt measures to determine a project's impact on overall debt sustainability.

Finally, some governments adopt specific limits or thresholds on direct FCs of PPPs. The objective is to avoid tying up too much of the budget (within a specific sector or at aggregated level) in long-term payments.

Section 12(1) of Nasarawa State FRL provides that "*the estimates of aggregate expenditure and the aggregate amount appropriated by the House of Assembly for each financial year shall not be more that the estimated aggregate revenue plus a deficit, not exceeding 5% of the estimated GDP or any sustainable percentage, as may be determined for each financial year*"

It is noteworthy that creating public expenditure limits applies to expenditure from PPP obligations, such as co-financing and viability gap funds. Therefore, both types of

expenditure should be aggregated within the fiscal limits in order to accurately determine affordability. **Table 12** presents the affordability indicators proposed in this framework.

Table 12: Affordability Indicators

FC	Cost	**Indicator of fiscal affordability** (Including projections over PPP contract length- beyond medium-term horizon)
Direct liabilities	- Estimated Annual payments - NPV	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of sub-national public debt - Cost as percentage of GDP
Guarantees	- Estimated annual payment, or expected average payment - NPV (Base/Downside cases)	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of contingency line - Cost as percentage of public debt - Cost as percentage of GDP
Termination payment	- Estimated worst-case payment or expected average payment - NPV	- Cost as percentage of national budget - Cost as percentage of contingency line - Cost as percentage of GDP
Other fiscal risk	- Estimated worst-case payment or expected average payment - NPV (Base/Downside cases)	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of contingency line - Cost as percentage of GDP

Source: CPCS

3.3. FCCL Management During Project Implementation Stage

3.3.1. Risk Allocation

Risk allocation is the exercise to define which party will assume each risk, identifying which risks the private partner will be (or remain) responsible for and to what extent and identifying which risks the public partner will be responsible for and to what extent. Allocation of risk to the private partner is also referred to as “risk transfer”, and allocation to the public partner is also referred to as “retained risk”. When there are clear signs that a risk transferred to the private partner will be unacceptable, or that it will only be accepted at a cost higher than the expected loss for the public partner if the risk were to be retained and managed directly (by the government), then the risk should indeed be retained (or taken back). Some risks will not be fully transferred or retained, but shared.

Risk assessment and allocation is clearly a progressive exercise. Risk allocation will normally have been preliminarily defined during the project development stage in order to conduct the VfM exercise and the commercial feasibility analysis. This is done on the basis of a careful identification and assessment of risks. Typically, retained risks (fully retained or shared) are incorporated into the contract in three categories: compensation events, relief events, and force majeure. These risks have fiscal implications.

Risk allocation is at the heart of PPP structuring. In principle, the PPP contract should define a complete allocation of project risks. Based on the contract, the Contracting Authority’s **Contract Manager** should create a risk matrix and a risk register, documenting the evaluation of risk likelihood and risk impact, as periodically assessed by the contracting authority.

3.3.2. Constructing the Project Fiscal Risk Matrix (PFRM)

The outcome of the risk management process informs the Project Fiscal Risk Matrix (PFRM). Inputs using PFRAM 2.0 generates a summary project risk matrix. The matrix presents the fiscal risk assessment for each of the 11 risk categories in the form of a heat map. Example of a PFRM is presented in **Table 13**.

The PFRM should be reviewed annually and each time an event changes the project risk profile. The Contracting Authority should establish a monitoring framework to track identified risks and emerging risks throughout the project lifecycle. The Authority should also regularly update the PFRM as the project progresses, especially at major milestones (e.g., financial close, start of operations).

Table 13: Sample Project Fiscal Risk Matrix

Risk identification	Likelihood	Fiscal Impact	Risk Rating likelihood* Impact	Mitigation strategy (Is it in place?)	Priority actions	Adopted Mitigation Strategy
Governance Risks	Low	Medium	Low	No	Medium Priority	
Construction Risks	Medium	High	High	Yes	Medium Priority	
Demand Risks	Medium	Low	Low	No	Medium Priority	
Operational and Performance risks	Low	Low	Irrelevant	Yes	No action	
Financial risks	Medium	Medium	Medium	No	High Priority	
Force Majeure	Low	Low	Irrelevant	Yes	No action	
Material adverse government actions	Medium	Medium	Medium	No	High Priority	
Change in law	Medium	High	High	No	Critical	
Rebalancing of financial equilibrium	High	Medium	High	Yes	High Priority	
Renegotiation	High	Low	Medium	Yes	Medium Priority	
Contact termination	Medium	Medium	Medium	Yes	Medium Priority	

3.3.3. Developing the Project Fiscal Risk Register

When preparing the draft contract and allocating risks, CAs should:

- Review the major risk categories,
- Identify the important fiscal risks from the project that should be covered in the PPP contract or the legal framework; and
- Start establishing the PFRR illustrated in **Table 15.**

Table 14: Project Fiscal Risk Register (PFRR)

Risk Identification		Allocation	Likelihood	Fiscal Impact		Rating	Mitigation
Category	*Event type*	*Govt/Private/ Shared*	*Probability of occurrence*	*Base Costs*	*Cost of occurrence*		*Measures and costs*
Governance	Risk A						
	Risk B						
Construction	Risk A						
	Risk B						
	Risk C						
Demand	Risk A						
Operation	Risk A						
	Risk B						

3.3.4. Reporting and Decision Making

The CA should:

- Present the PFRM for each particular project to decision-makers (NASIDA and the MFBP), ensuring transparency about potential fiscal risks; and
- Use the PFRM to inform decisions on project approval by the NASIDA Board.

Also, the PFRM should be used by the Contract Manager during the contract management stage.

3.4. FCCL Management during Contract Management Stage

FCCL risks should be monitored and reviewed regularly. The CA has primary responsibility for contract management, which includes fiscal monitoring. However, the NASIDA law empowers NASIDA with oversight over the PPP process and thus, the Agency should establish a monitoring system to track identified risks and emerging risks throughout the project lifecycle. This is to be done concurrently with regular update of the PFRM as the project progresses.

Estimates should be recorded and/or updated during the following project milestones, to ensure consistency with the Nasarawa state's legal framework for PPPs. **Table 15** highlights key points of intervention by NASIDA to ensure efficient monitoring of FCCL.

Table 15: FCCL Oversight by NASIDA throughout the PPP Project Cycle

Project Milestone	Legal Basis
The Board's Approval of Feasibility Studies (**Second Stage Approval**	**Section 16 of First Schedule of NASIDA Law**
The Board's Review of the Contract Award Plan, the Draft RfP and the Draft PPP Agreement **Third Stage Approval**	**Section 18 of First Schedule of NASIDA Law**
The Board's Review of the Contract Award Plan, the Draft RfP and the Draft PPP Agreement	
State Executive Council Approval of the PPP Transaction	(**Section 24 of First Schedule of NASIDA)**
Conclusion of the PPP Agreement between the Private Party and the Contracting Authority	**Section 27 of First Schedule of NASIDA Law**)
After financial closure of the PPP project	
During construction years on an annual basis	
During operations on an annual basis.	

3.4.1. Monitoring

Managing FCs entails monitoring, reporting and budgeting of PPP projects, both at individual project level and at portfolio program level. Adequate monitoring and disclosure of FCs and risks will allow the government to prevent undesirable events from occurring, mitigate their impact, and make informed decisions during the operation phase.

The contract management stage will require the CA gathering project financial parameters, risks and performance, and country macroeconomic information, and any other input that may affect fiscal commitments and fiscal risks. The objective will be to ensure that updated information is reported at the right time to the relevant central agencies.

Each commitment or fiscal risk must have specific information, such as financial and accounting ratios and indicators, to monitor the evolution across the term of the contract.

Table 16 highlights what minimum information shall be collected and registered by the CAs in each PPP project.

Table 16: Monitoring Information: FCs and Fiscal Risks

FC	Required information / Periodicity	Entity who must send information	Obligation to submit information set at: (PPP Agreement, Letter of Support, etc.)	Follow-up of mitigation activities of Risk Register
Project X				
Direct Liabilities				
Payment 1	-	-	-	-
Payment 2	-	-	-	-
Contingent Liabilities				
Payment 1	-	-	-	-
Payment 2	-	-	-	-
Other fiscal risks				
Risk A	-	-	-	-

3.4.2. Accounting, Budgeting and Reporting PPPs

There are three main sets of public sector accounts that use information at different stages of the fiscal cycle: **budgeting, accounting, and statistics**. Ideally, the treatment of PPPs should be consistent among the three sets of public sector accounts; budgeting, accounting, and statistical reporting standards of PPPs should result in similar impacts on the main fiscal aggregates of deficit and debt.

However, in practice, the impact of PPPs reported by governments in these three sets of accounts could differ. PFRAM 2.0 assumes that PPPs are on-budget, are on-balance sheet, and are included in government finance statistics.

3.4.3. Budgeting for PPPs

Good practices suggest that PPPs should be included in the government's budget. PPPs should compete for budgetary funds with other investment projects. Ideally, there should be no difference with the way in which traditional and PPP projects are recorded in the budget. If the PPP creates a public asset that is controlled by government, the budget implications should be the same as when the public asset is procured traditionally.

However, this is not the case when the government's budget is on a cash basis. PPPs will mainly impact budget deficits when the government makes regular payments to the private partner once the asset has been constructed and becomes operational. In PPPs the private

partner is responsible for constructing the asset by using its own financing and will be repaid later during operation.

The government does not face any cash flows related to the PPP during the construction phase. Only when the asset becomes operational, and if it is a government-funded PPP, will the government need to make regular payments, recording the corresponding cash outflows from the budget as expenses. If it is a user-funded PPP, such as a concession, the government's cash flows would typically be zero, since the private partner constructs the asset and the user pays it back directly through fees or tariffs.7 Therefore, nothing is recorded when the government's budget is on a cash basis and PPPs are user-funded, hampering budget discipline and transparency.

3.4.4. Reporting and Recognizing PPP Liabilities

The NASG need to account for and report PPPs on their financial commitments, including those under PPP contracts. However, central agencies should ensure that fiscal reporting on PPPs is consistent with fiscal reporting generally.

Table 16 shows the suggested information to be reported on direct and contingent liabilities for each PPP project by CAs. Description shall include:

a. description of the liability,
b. estimate of the value of the liability,
c. annual cost and present value (for direct liabilities); and
d. and maximum exposure (for contingent liabilities).

This reporting shall be included in medium-term budget reports and debt strategy reports of the DMO.

Table 17: Reporting Sample of FCs by Project

PPP project	Direct liabilities	Annual payments value for 3-year budget			Present value of all payments
		2024	2025	2026	2027
Project 1	- Annuity payment. Indexed quarterly by inflation.				
Project 2	- Annuity payment. Indexed quarterly by inflation.				

PPP project	Contingent liabilities	Estimated annual payments value for 3-year budget			Present Value of Maximum exposure
		2024	2025	2026	2027
Project 1	- Revenue Guarantee				
	- Termination payment In case of default of contracting authority				
Project 2	- Termination payment In case of default of contracting authority				

Estimations of liabilities (**Table 17**) and follow-up activities should be updated on an ongoing basis.

Fiscal responsibility is usually examined in relation to thresholds over government's liabilities and expenditures. It must be taken into account that adequate accounting and reporting tackle the perception bias that PPPs attract immediate private financing without increasing government spending and debt.

Determining how PPP commitments are to be recognized is important as it defines whether such liabilities count toward debt management limits. International public-sector accounting standards, such as International Public Sector Accounting Standards (IPSAS) 32, and international government financial reporting and statistics guidelines, such as IMF's GFSM (2014), and IMF's Guide on Public Sector Debt Statistics (2013) provide a framework for accounting and statistics of PPP transactions.

For internal and external transparency of the financial effects of PPPs on government's position, FCs should be reported. Nasarawa State has adopted the IPSAS. The IPSAS standard guides the extent to which PPP commitments are recognized as government capital expenditure or liabilities. For example, under IPSAS 32, the asset will be regarded as belonging to the government. Therefore, PPP assets and liabilities should be included in the government's balance sheet if:

A. the government controls or regulates what services the contractor must provide with the PPP asset, to whom, and at what price;

B. and (ii) the government controls any significant residual interest in the asset at the end of the contract.

Regarding contingent liabilities, IPSAS 19 states that the expected cost of a contingent obligation should be recognized only if: (1) it is more likely than not (50%) that the event will occur; and (2) the amount of the obligation can be measured with sufficient reliability.

3.4.5. Disclosing PPP Liabilities

Best practices suggest that, even when PPP commitments are not recognized as liabilities, they should still be disclosed in notes to the accounts and reports. In an increasing number of jurisdictions, contingent liabilities are disclosed either in budget documents or other fiscal reports sent to legislature. NASG adopts a similar process. **Section 18(f)** of the FRL provides that the Annual Budget shall be accompanied by Fiscal Risk Appendix, evaluating the fiscal and other related risks to the annual budget and specifying measures to be taken to offset the occurrence of such risk._Also, **Section 5(j)** of the Nasarawa State Debt Management Office Law mandates the DMO to prepare a schedule of any other Government obligation such as trade debts and other **contingent liabilities** and provide advice on policies and procedures for their management.

Appendix A: PFRAM Risks and Sub-Risks

PFRAM 2.0 includes a Project Fiscal Risk Matrix to systematically assess the main fiscal risks on a project-by project basis. The risks included in the matrix areas as follows:

1. Governance Risks

- **R1.** If the Public Investment Management (PIM) framework is not strong enough to guarantee that only priority projects are selected, a non-priority project might be implemented and absorb public resources, crowding out priority projects and leading to efficiency losses. To mitigate this risk, the public investment management framework should to be reinforced.
- **R2.** If the MFBP is not able to effectively manage fiscal risks arising from this project, the risks might be amplified, and the probability and impact of other fiscal risks may be higher than they would be with adequate experience and capacity. To mitigate this risk, capacity in the fiscal risk management team in the MFBP should be strengthened.
- **R3.** If project and contract information is not disclosed adequately, public concerns regarding the governance of the project/contract may arise, preventing users from acting as independent auditors of the project and/or exerting pressure to change the project. To mitigate this risk, the government should put in place a strong communication strategy engaging stake holders and creating ownership of the project, together with clear and standardized disclosure procedures for project information and, ultimately, contract disclosure.

2. Construction

R4. Risks related to land availability

- If the land is not already available, the government might face additional fiscal costs arising from possible compensation for construction delays. To mitigate this risk, (1) a complete assessment of land needs should be undertaken prior to contract closure; (2) the land acquisition process should be prepared; and (3) buffers and flexibility clauses should be included in the contract.
- If the project might be canceled due to lack of land, the government might face costs due to compensation to the private partner and the project redesign. To mitigate this risk, the government should ensure land availability at an early stage of the project cycle.
- If the private partner has to pay for the land acquisition, the private partner might not be able to cope with the cost; the government would be confronted with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should ensure land availability at an early stage of the project cycle or

provide sufficient information regarding the need and value of the land to ensure that the private partner is able to cope with the cost.

- If the government has to pay for land acquisition, it may face additional fiscal costs arising from the acquisition and possible delays due to unavailability of land, which might lead to compensation payments for possible delays. To mitigate this risk, the government should (1) complete the assessment of land availability and cost prior to contract closure; and (2) build in buffers and flexibility clauses in procurement and contracts.

R5. Risks related to relocation of people and activities

- If people and/or activities are subject to relocation due to project implementation:
  - If the government is paying for the relocation of people and/or activities and possible project delays, it will face the cost of relocation and compensation. To mitigate this risk, the government should undertake a timely assessment of relocation needs and engage in effective stakeholder management.
  - If the private partner is paying for the relocation of people and/or activities and is unable to cope with cost, the government will be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should ensure timely assessment of relocation needs and provide sufficient information on relocation needs and costs.

R6. Risks related to land decontamination

- If the government has to pay for land decontamination and the need for decontamination arises, this will result in fiscal costs. To mitigate this risk, the government should undertake a timely assessment of the need and cost of decontamination.
- If the private partner has to pay for land decontamination and is not able to cope with the cost, the government may face the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should (1) ensure a timely assessment of decontamination needs; and (2) should provide sufficient information on land condition.

R7. Risks related to environmental and archeological issues

- If there is a possibility of facing environmental/archeological issues and the government has to pay for them, the government may face costs (1) for environmental and archeological issues; and (2) for compensation payments it might have to make to the private partner due to project delays. To mitigate this risk, the government should (1) specify environmental constraints prior to tender (including permits and licenses); and (2) develop a plan to deal with archeological findings.

- If there is a possibility of environmental/archeological issues and the private partner has to pay for them, the private partner might not be able to cope with the associated costs; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should (1) specify environmental constraints prior to tender (including permits and licenses); and (2) develop a plan to deal with archeological findings.

R8. Risks related to geological issues

- If there is a possibility of geological issues and the government has to pay for them, it may face compensation payments. To mitigate this risk, the government should (1) ensure a timely assessment of the geological conditions and their implications for the project; and (2) develop a plan to deal with these issues.
- If there is a possibility of geological issues and the private partner must pay for them, the private partner might not be able to cope with the costs related to these issues; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should (1) ensure a timely assessment of the geological conditions and their implications for the project; and (2) provide sufficient information regarding geological conditions.

R9. Risks related to licensing

- If the project is subject to licensing and the government pays compensation for project delays due to delayed licensing, the government may face the costs of compensation for project delays. To mitigate this risk, the government should ensure that subnational governments are fully supportive of the project and that project deadlines are consistent with subnational regulations.

R10. Risks related to failures/errors/omissions in project design

- If the government can be held responsible for design failures, errors, or omissions, it may have to pay compensation for failures in designs presented to the private partner if the cost of design risks is not fully transferred to the private partner. To mitigate this risk, the tender process and the contract should ensure that the private partner takes full responsibility for the design.

R11. Risks related to inherent defects in assets transferred to the private partner

- If the government can be held responsible for any inherent defect in assets transferred to the private partner, it may have to pay compensation to the private partner for inherent defects and the costs of defect remediation. To mitigate this risk, the government should

ensure a prior assessment of the quality of the assets to be transferred to the private partner, allowing for full pricing of identifiable defects.

R12. Risks related to changes in project design and scope required by procuring agencies

- If the government is responsible for compensation due to changes in design and scope required by procuring agencies, it may have to compensate the private partner for net costs due to changes in the design and/or scope. To mitigate this risk, the contract should include provisions allowing for changes in the design/scope of the project, up to a predetermined limit. In addition, the accountability framework to monitor project cost overruns should be reviewed and improved, as necessary.

R13. Risks related to changes in input prices

- If the government is responsible for compensation in the event of excess volatility in input prices, it may have to pay compensation for significant changes in input prices. To mitigate this risk, the volume and prices of the relevant inputs should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility of input prices, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.

R14. Risks related to changes in nominal exchange rate

- If the government is responsible for compensation in the event of excess volatility in nominal exchange rate, it may have to pay compensation for significant increases. To mitigate this risk, the volume of foreign currency required and the exchange rate should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility in the nominal exchange rate, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.

3. Demand

- If the PPP is **fully funded by the government**, and the **payments are linked to the volume** of service being provided:

- **R15.** If a cap is in place, the project may be confronted with much higher demand than included in the contract, which might require a costly renegotiation of the cap or require the government to purchase services from other providers. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
- **R16.** If no cap is in place, the government may face higher than expected demand, leading to higher-than-expected costs. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
- **R17.** If the project is suffering from insufficient demand, this may lead to project failure; the government may face costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish financial equilibrium.

- If the PPP is **fully funded by the government**, and the **payments are not linked to the volume** of service being provided:
  - **R18.** If demand is much higher than expected, the project may collapse, and the government may face the cost of early termination or contract collapse. This risk can be mitigated by managing or diverting demand, which could have a fiscal cost.
  - **R19.** If demand is much lower than expected, the project might be challenged; the government would not face additional fiscal costs, but it would pay for a service that is not/not fully being taken up by the user. This risk can be mitigated by managing demand by increasing demand or diverting it from other projects.
- If the project is either **totally user-funded or funded by a combination of government payments and user fees:**
  - **R20.** If users consider user fees—regulated or not—excessive relative to services received, this might have a bearing on the reputation of the government. This risk can be mitigated by effective communication.
  - **R21.** If the project is suffering from insufficient demand, this might lead to project failure, presenting the government with additional fiscal costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish financial equilibrium.

4. Operation & Performance

- **R22.** If the PPP agreement does not ensure that the government has full access to information on project performance, the government may be unable to effectively manage the contract. To mitigate this risk, the information-sharing requirements should be included in the contract and addressed in the legal framework.

- **R23**. If the contract does not clearly specify performance indicators, reference levels, and penalties or deductions, the government may face significant risks for not being able to address poor performance by the private partner. Failure to monitor project performance can lead to poor contract enforcement, which has administrative, efficiency, and political costs. It may also cause difficulties in applying project cancellation clauses and possibly in using step-in rights by financiers. To mitigate this risk, (1) key performance indicators should be included in the PPP agreement, with reference levels, linked to penalty mechanism (preferably automatic deductions form periodic payments); and (2) the core contract management team should be involved in contract negotiation to guarantee that performance indicators/levels are fair, measurable, and contractible, that is, able to be presented as evidence in court.
- **R24**. If the government does not have the capacity and procedures in place to monitor performance, it faces significant risks for not monitoring performance, which has administrative, efficiency, and political costs. To mitigate this risk, contract monitoring procedures should be in place when contracts are signed; a core contract management team should be assigned before contract closure and should be involved in contract negotiation to guarantee that contract management procedures are feasible and efficient.
- **R25**. Depending on whether and how the contract addresses the introduction of new technologies, technical innovation may create explicit and implicit fiscal risks for the government. To mitigate this risk, the duration of PPP agreements should not exceed the expected life cycle of the technology used in the sectors, enabling the government to respond to technological innovation within a reasonable timeframe. For PPP agreements for projects including high and low innovation components, it can be appropriate to separate the two components—for example, a hospital building from the medical equipment—into separate contracts that might be of different duration or nature; the high-tech component might not be under a PPP agreement but might be undertaken as traditional public procurement.
- **R26**. If there is a scarcity of specialized human resources, this could lead to performance issues. To mitigate this risk, the government should reallocate human resources from other activities or plan capacity-building activities in advance.
- **R27**. If there is a risk of significant increases in labor costs, this may lead to project failure. To mitigate this risk, the government should plan capacity building activities ahead of time.

5. Financial

- **R28.** If the private partner is unable to obtain finance for project implementation, the government may face project failure **before implementation starts**, being forced to take over the project, re-tender, or redesign and re-tender the project. To mitigate this risk, the government should (1) undertake a proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project; (2) establish adequate qualification requirements; (3) consider bid bonds and performance bonds to discourage not suitable candidates from bidding for PPPs; and (4) require some degree of commitment by financing parties during tender for very sensitive projects in less developed financial markets
- **R29**. If the private partner is unable to refinance short-term financing instruments, the government may face project failure **after implementation starts.** In such cases, the government could (1) be required to pay compensation for capital investment, (2) take over the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worse cost conditions for government). To mitigate this risk, in addition to undertaking the measures listed under **R28**, the government may require bidders to obtain long-term financing for very sensitive projects.
- **R30**. If the private partner is unable to manage risk of excess volatility in interest rates, the project may face post-contract failure. The government could (1) be required to pay compensation for capital investment, (2) assume the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worst cost conditions for government). To mitigate this risk, the government should undertake the measures listed under the **R28**.
- **R31**. If government contractually accepted some exchange rate risk, fiscal support may be needed in the form of compensation; it may have to pay compensation for excessive volatility of exchange rate. Also, if the private partner is unable to cope with excess volatility in the nominal exchange rate, the government may have to (1) renegotiate under stress or face project collapse and pay compensation for capital investment; or (2) assume the project and then re-tender under a different risk allocation scheme. To mitigate these risks, the government should ensure a proper consideration of exchange rate risk, which may lead to better risk sharing and proper use of hedging mechanisms.

6. Force Majeure

- **R32**. If there is no exact list of events to be considered force majeure tailored for the project, the government might have to pay compensation, adjust, or even terminate the contract due to force majeure events. Full or partial compensation by the government may even force the government to buy the assets or assume debt. To mitigate this risk,

the scope of the force majeure events should be clearly stated in the contract, considering the legal requirements and specific project conditions. The contract should create incentives for the private partner to get insurance against some risks when insurance is available at a reasonable cost and to effectively manage risks by designing assets and managing services in ways that minimize the probability of occurrence and size of impact.

7. Material Adverse Government Actions (MAGA)

- **R33**. If no clear definition of events to be considered MAGA are included in the contract, the government might have to pay compensation, adjust, or even terminate the contract due to acts and omissions by public entities, potentially forcing the government to buy the assets or assume debt. To mitigate this risk, contract managers should monitor the channels through which government's actions and omissions can affect the project during the life of the contract. Executive government actions and policy changes should be carefully evaluated by the contract manager and the fiscal management team to assess any impact on the PPP agreement.

8. Change Law

- **R34**. If the PPP agreement does not identify changes in law that do and do not require compensation by the government, the government might have to pay unforeseen compensation when adjusting or even terminating the contract due to changes in law. Changes in law might also benefit the private partner and, if not considered in the contract, increase the private partner’s profit margin without benefitting the government. The cost of changes in law might include compensation payments, need to buy the asset or to assume debt, or loss of potential compensation paid by the private partner to the government. To mitigate this risk, the PPP agreement should clearly identify changes in law that trigger a compensation or the right to terminate and should define the consequences. In addition, legislation and public policies should be in place to efficiently deal with this risk.

9 Rebalancing of financial equilibrium

- **R35**. The legal framework may prescribe that the government is paying compensation and/or terminating the contract due to requirement to reinstate financial equilibrium. The government may have to pay compensation or cancel the project. To mitigate the risk from this, the PPP agreement should restrict its application to the cases of force majeure, MAGA, avoiding its application to a wider range of situations.
- **R36**. The government might have to pay compensation and/or terminate the contract due to contract guaranteeing a rate of return for the private partner. To mitigate this risk,

clauses and expectations on a guaranteed level of project rate of return or the shareholder's rate of return should be avoided.

- **R37**. The government might have to pay compensation and/or terminate the contract due to excessive protection against some hardships. To mitigate this risk, hardship clauses, if needed, should be precise and strict. Alternative methods to reduce excessive private sector risks should be considered, including insurance, future markets, and other hedging mechanisms.

10. Renegotiation

- **R38**. If the government opens an uncontrolled renegotiation process, under information asymmetry and no competitive pressure, it might jeopardize economic efficiency by allowing the private partner to transfer to the government costs and risk that had originally been accepted by the private partner, with the fiscal impact depending on the government's ability to manage the renegotiation process. To mitigate this risk, the government should have a strategic view of PPP agreement management and create the capacity to renegotiate.

11. Contract Termination

- **R39**. If the government enters into an early termination process without clear knowledge of the consequences and procedures, the lack of clarity regarding consequences on early termination increases the private partner's bargaining power, leading to increases in the cost of termination; possibly preventing the government from cancelling non-performing contracts, or generating incentives for governments to nationalize a project or assets without proper assessment of the cost of that decision. To mitigate this risk, contracts should include a clear definition of the reasons for early termination (for example, underperformance of the private partner, public interest, or force majeure) and should present its consequences in terms of transfer of assets and responsibilities, namely, financial compensation for capital investment. Compensation should vary according to the party responsible for the early termination.
- **R40**. If the government terminates the contract without a clear understanding of transfer processes, including financial consequences, then (1) it may need to pay for stock of inputs or outputs; (2) human resources issues may imply financial compensation or increased current expenditures; and (3) licenses needed to continued operation may create fiscal surprises. To mitigate this risk, contracts should include a clear definition of the termination process; all financial consequences and identified gaps in the contract should be resolved by having both parties sign transfer protocols detailing the rules.

Appendix B: Sample Risk Assessment Questionnaire

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
1	GOVERNANCE RISKS							
1.1	**Does the government have a strong public investment management framework (PIM) guaranteeing that this is a priority project?** The government has a strong PIM							
	No risks identified		*IF YES*					
	The government has a weak PIM							
	RISK 1	**The PIM may not have been strong enough to guarantee this is a priority project**	*IF NO*	Depends on the strengths and weaknesses of the institutional framework	Efficiency loss. Implementing a non-priority project and/or not pursuing a priority project.		Reinforcing the public investment management framework.	
1.2	**Does the MFBP have the experience and/or capacity to manage fiscal risks from complex, long-term projects during their whole life-cycle?** The **MFBP** has the experience and capacity to manage fiscal risks from large investment projects							
	No risks identified		*IF YES*					
	The **MFBP** lacks the experience and capacity to manage fiscal risks from							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	large investment projects							
	RISK 2	**The MFBP may not be able to effectively manage fiscal risks arising from this project**	*IF NO*	Depends on the strengths and weaknesses of the institutional framework	Risk amplification: probability and impact of other fiscal risks may be higher than would be with adequate experience and capacity		Creating capacity in the fiscal risks management team in the Ministry of Finance/Budgetary authority	
1.3	**Does the government disclose project and/or contract information?** The government discloses project and/or contract information							
	No risks identified		*IF YES*					
	The government does not disclose project and/or contract information							
	RISK 3	**Poor disclosure of project and contract information may create public concerns regarding the governance of the project/contract**	*IF NO*	Depends on the strengths and weaknesses of the institutional framework	Efficiency loss. Lack of transparency may prevent users from acting as independent auditors of the project, and/or allow them to put pressure for changing the project.		Strong communication strategy to engage state holders and create ownership of the project. Clear and standardized disclosure procedures for project information and ultimately contract disclosure.	

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
2	CONSTRUCTION RISKS							
2.1	Risks related to land availability							
2.1	**Is land already available to the private partner?** Land is already available to the private partner							
	No risks identified		IF YES					
2.1.1	Land is not available to the private partner		IF NO					
	Is there a credible guarantee that land will be available for the project?							
	RISK	**Government's additional fiscal costs arising from possible construction delays due to untimely availability of land**	IF YES		Uncertain fiscal cost from compensation for construction delays		Complete assessment of land needs prior to contract closure; prepare the land acquisition process; build in buffers and flexibility clauses in the contract	
	RISK	**Project cancellation due to lack of land**	IF NO		Costs due to compensation to private partner and project redesign		Ensure land availability at an early stage of the project cycle	
2.1.2	**Will the private partner have to pay for land acquisition?**							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**Private partner may not be able to cope with cost of land**	***IF YES***		Cost of project cancellation and retender, or renegotiation with higher fiscal cost		Ensure land availability at an early stage of the project cycle, or provide sufficient information regarding the need and value of the land to ensure that private partner is able to cope with the cost of land.	
	RISK	**Government's additional fiscal costs arising from land acquisition and possible delays due to unavailability of land**	***IF NO***		Uncertain fiscal cost from land acquisition and compensation for possible delays		Complete assessment of land availability and cost prior to contract closure; build in buffers and flexibility clauses in procurement and contracts	
2.2	**Risks related to relocation of people and activities**							
2.2	Are there people or activities subject to relocation due to project implementation? People or activities are not subjected to relocation							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	No risks identified		*IF NO*					
2.2.1	People or activities are subjected to relocation		*IF YES*					
	Will the private partner have to pay for relocation of people or activities?							
	RISK	**Government paying for relocation of people and/or activities and possible project delays**	*IF NO*		Cost of relocation/compensation		Timely assessment of relocation needs; stakeholder management	
	RISK	**Private partner not able to cope with cost of relocation**	*IF YES*		Cost of project cancellation and retender, or renegotiation with higher fiscal cost		Ensure timely assessment of relocation needs, and provide sufficient information on relocation needs and costs.	
2.3	**Risks related to land decontamination**							
2.3	**Is there a need for land decontamination?**							
	No need for land decontamination							
	No risks identified		*IF NO*					

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
2.3.1	Need for land decontamination		IF YES					
	Will the private partner have to pay for decontamination?							
	RISK	**The government will face costs arising from land decontamination**	IF NO		Fiscal costs from land decontamination		Timely assessment of need and cost of decontamination	
	RISK	**Private partner is not able to cope with the cost of land decontamination**	IF YES		Cost of project cancellation and retender, or renegotiation with higher fiscal cost		Ensure timely assessment of decontamination needs, and provide sufficient information regarding land condition.	
2.4	**Risks related to environmental and archeological issues.**							
2.4	**Is there a possibility of facing environmental/archeological issues?**							
	No risks from environmental and archeological issues							
	No risks identified		IF NO					
2.4.1	There are risks from environmental and archeological issues		IF YES					
	Will the private partner have to pay							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	for environmental and archeological issues?							
	RISK	**Government costs arising from environmental or archeological issues and from compensation for project delays**	***IF NO***		Government costs from environmental or archeological issues, and compensation to private partner due to project delays		Environmental constraints specified prior to tender (including permits and licenses); develop a plan to deal with archeological findings	
	RISK	**The private partner is not able to cope with the cost of environmental or archeological issues**	***IF YES***		Cost of project cancellation and retender, or renegotiation with higher fiscal cost		Environmental constraints specified prior to tender (including permits and licenses); develop a plan to deal with archeological findings	
2.5	**Risks related to geological issues.**							
2.5	**Is there a possibility that the project phases geological issues?**							
	No risks from geological issues							
	No risks identified		***IF NO***					
	There are risks from geological issues		***IF YES***					

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
2.5.1	**Will the private partner have to pay for geological issues?**							
	RISK	**The government will pay compensation for significant geological issues**	***IF NO***					
	RISK	**The private partner may not be able to cope with cost of geological issues**	***IF YES***					
2.6	**Risks related to licensing (e.g. subnational).**							
2.6	**Will the project be subjected to licensing (e.g. subnational)?** No risks from lack of licensing or project delays due to licensing							
	No risks identified		***IF NO***					
	There are risks from lack of licensing or project delays due to licensing							
	RISK	**The government pays compensation for project delays due to delayed licensing**	***IF YES***		Costs of compensation for project delays		Ensure that subnational governments are fully supportive of the project, and that project deadlines are consistent with subnational regulations.	
2.7	**Risks related to failures/errors/omissions in project design.**							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
2.7	**Can the government be hold responsible for design failures, errors, or omissions?** No risks related to failures/errors/omissions in project design							
	No risks identified		*IF NO*					
	There are risks related to failures/errors/omissions in project design							
	RISK	**The government pays compensation for failures in designs presented to private partner**	*IF YES*		Costs of design risks not fully transferred to the private partner		The tender process and the contract should ensure that the private partner takes full responsibility for the design	
2.8	**Risks related to inherent defects in assets transferred to the private partner.**							
2.8	**Can the government be held responsible for any inherent defect in assets transferred to the private partner?** No risks related to inherent defects in assets transferred to the private partner							
	No risks identified		*IF NO*					
	There are risks related to inherent defects in assets transferred to the private partner							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**The government pays compensation to the private partner for inherent defects**	*IF YES*		Costs of defects remediation		Prior assessment of the quality of the assets to be transferred to the private partner, allowing for full pricing of identifiable defects.	
2.9	**Risks related to changes in project design and scope required by procuring agencies.**							
2.9	**Can the government be responsible for compensation due to changes in design and scope required by procuring agencies?** No risks related to changes in project design or scope required by procuring agencies							
	No risks identified		*IF NO*					
	There are risks related to changes in project design or scope required by procuring agencies							
	RISK	**The government pays compensation for changes in design and scope**	*IF YES*		Changes in net costs due to changes in design and/or scope of the project		Contract provisions allowing for changes in the design/scope of the project up to a limit (predetermined); improve accountability framework to	

	RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
							monitor project cost overruns.	
2.10	**Risks related to changes in input prices**							
2.10.	**Can the government be responsible for compensation in the event of excess volatility in input prices?** There are risks for the government related to changes in input prices							
	RISK	**The government pays compensation for significant changes in input prices**	*IF YES*					
	No risks for the government related to changes in input prices		*IF NO*					
2.10.1	**Will the private partner have to face excess volatility of input prices?**							
	No risks identified		*IF NO*					
	RISK	**The private partner may not be able to cope with significant changes in input prices**	*IF YES*					

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
2.11	**Risks related to changes in nominal exchange rate.**							
2.11	**Can the government be responsible for compensation in the event of excess volatility in nominal exchange rate?** There are risks for the government related to changes in nominal exchange rate							
	RISK	The government pays compensation for significant increase in nominal exchange rate	*IF YES*					
2.11.1	**Will the private partner have to face excess volatility of nominal exchange rate?**							
	No risks identified		*IF NO*					
	RISK	The private partner may not be able to cope with excess volatility in nominal exchange rate	*IF YES*					
3	DEMAND RISKS							
3.1	**Is the PPP project fully funded by the government?**							
3.1	**The PPP is fully government-funded**		*IF YES*					
	How are government payments to the private partner determined?							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
3.1.1	**The government payments are linked to volume of services provided**							
	If demand for services is higher than originally expected							
3.1.1.1	**Does the PPP contract set a cap for the government payments?**							
	RISK	**Facing demand much higher than the cap included in the contract**	***IF YES***		Additional fiscal cost of renegotiating the cap; government cost of services delivered by other provider		E.g.: Manage demand (reduce or divert demand)	
	RISK	**Facing demand higher than originally expected**	***IF NO***		The government pays for the provision of additional services		E.g.: Manage demand (reduce or divert demand if the cost of the alternative is lower).	
	If demand for services is lower than originally expected							
3.1.1.2	**Can the government influence demand?**							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**Facing insufficient demand for services--when the government can influence demand--may lead to project failure**	***IF YES***		Additional fiscal costs of early termination or renegotiation		E.g.: Manage demand (increase demand or divert demand from other projects to this one); renegotiate contract to re-establish financial equilibrium. In addition, mitigation measures will have fiscal costs.	
	RISK	**Facing insufficient demand for services--when demand is market determined--may lead to project failure**	***IF NO***		Additional fiscal costs of early termination or renegotiation		E.g. Renegotiate contract to re-establish financial equilibrium	
3.1.2	**Government payments are not linked to the volume of the services provided**							
	If demand for services is higher than originally expected							
	RISK	**Project collapse due to demand much higher than originally expected**			Additional fiscal cost for early termination if contract collapse		E.g.: Manage demand (reduce demand, divert demand), which could have a fiscal cost	
	If demand for services is lower than							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	originally expected							
	RISK	Project is challenged due to demand much lower than originally expected			No additional fiscal cost		E.g.: Manage demand (increase demand or divert it from other projects), which would have a fiscal cost	
3.2	The PPP project is either totally user-funded, or funded by a combination of government payments and user fees		*IF NO*					
3.2.1	Are maximum user fees specified in the contract?							
	RISK	Users may consider regulated user fees excessive relative to services received	*IF YES*		No additional fiscal cost		Good communication	
	RISK	Users may consider non-regulated user fees excessive relative to services received	*IF NO*		No additional fiscal cost		Good communication	
3.2.2	Can the government influence demand?							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**Facing insufficient demand for services--when the government can influence demand--may lead to project failure**	*IF YES*		Additional fiscal costs of early termination or renegotiation		E.g.: Manage demand (increase demand or divert demand from other projects to this one); renegotiate contract to re-establish financial equilibrium. In addition, mitigation measures will have fiscal costs.	
	RISK	**Facing insufficient demand for services--when demand is market determined--may lead to project failure**	*IF NO*		Additional fiscal costs of early termination or renegotiation		E.g. Renegotiate contract to re-establish financial equilibrium	
4	OPERATIONAL AND PERFORMANCE RISKS							
4.1	**Risks related to information access**							
4.1	**Does the contract give the government full access to information on project performance?** The contract gives to the government full access to project performance information							
	No risks identified		*IF YES*					
	The contract does not give to the government full access to project performance information							

RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK The government faces significant risks for not having access to information on performance	IF NO					
4.2	Risks related to disclosure of information						
4.2	**Does the contract clearly specify performance indicators, reference levels, and penalties/deductions?**						
	The contract clearly specifies performance indicators, reference levels, and penalties and/or deductions	IF YES					
4.2.1	**Does the government have the capacity/procedures in place to monitor performance?**						
	No risks identified	IF YES					
	RISK The government faces significant risks for not monitoring performance	IF NO		Poor contract enforcement has administrative, efficiency and political costs.		Contract monitor procedures should be in place when contracts are signed. The core contract management team should be hired before contract closure and be involved in contract negotiation, to guarantee that	

RISK IDENTIFICATION		LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
					contract management procedures are feasible and efficient.	
The contract does not specify performance indicators, reference levels, and penalties and/or deductions	***IF NO***					

	RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**The government faces significant risks for not being able to punish the private partner for poor performance**			Non-monitoring of project performance reduces contract enforcement. It has administrative, efficiency, and political costs. Potential difficulties in applying project cancellation clauses and possibly in using step-in rights by financiers.		Key performance indicators should be included in PPP contracts, with reference levels, linked to penalty mechanism (preferably automatic deductions form periodic payments). The core contract management team should be involved in contract negotiation to guarantee that performance indicators/levels are fair, measurable, and contractible (i.e., capable of being presented as evidence in a court).	
4.3	**Risks related to technical innovation**							
4.3	**Does the contract address the introduction of technical innovation?**							
	RISK	**Technical innovation may create explicit and implicit fiscal risks for the**	***IF YES***					

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
		government						
	RISK	Technical innovation may create implicit fiscal risks for the government	IF NO					
4.4	Risks related to scarcity of specialized human resources							
4.4	**Is there the possibility of scarcity of specialized human resources?** Specialized human resources are adequate							
	No risks identified		IF NO					
	There are risks of scarcity of specialized human resources							
	RISK	Performance issues due to scarcity of specialized human resources	IF YES					
4.5	Risks related to significant changes in labor costs							
4.5	**Is there the possibility of significant changes in labor costs?** There are no credible possibilities of significant changes in labor costs							
	No risks identified		IF NO					
	There is a possibility of significant changes in labor costs							

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**Facing significant changes in labor costs--with same technology and productivity--may lead to project failure**	*IF YES*					
5	**FINANCIAL RISKS**							
5.1	**Risks related to availability of funds**							
5.1	**Is the private partner able to obtain finance for project implementation?** The private partner is able to obtain finance for project implementation							
	No risks identified		*IF YES*					
	The private partner is unable to obtain finance for project implementation							
	RISK	**The private partner is unable to obtain finance for project implementation**	*IF NO*		The government may face project failure before implementation starts, being forced to take over the project, re-tender, or redesign and re-tender the project.		Proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project. Establishment of adequate qualification requirements, bid bonds and performance bonds will discourage	

RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
						adventures from bidding for PPPs. For very sensitive projects, governments with less developed financial markets may require some degree of commitment by financing parties during tender.	
5.2	**Risks related to refinancing**						
5.2	**Is the private partner able to refinance short-term financing instruments?** The private partner is able to refinance short-term financing instruments						
	No risks identified	***IF YES***					
	The private partner is unable to refinance short-term financing instruments						

RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
RISK	**The private partner is unable to refinance short-term financing instruments**	***IF NO***		The government may face project failure after implementation starts, and thus be required to pay compensation for capital investment, being forced to take over the project, or renegotiate an interim financial solution and then re-tender the project (possibly under worse cost conditions for government)		Proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project. Establishment of adequate qualification requirements, bid bonds and performance bonds will discourage adventures from bidding for PPPs. For very sensitive projects, governments may require bidders to obtain long-term financing.	
5.3	**Risks related to excess volatility of interest rates**						
5.3	**Is the private partner able to cope with excess volatility of interest rates?** The private partner is able to cope with excess volatility of interest rates						

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	No risks identified		***IF YES***					
	The private partner is unable to cope with excess volatility of interest rates							
	RISK	**The private partner is unable to cope with excess volatility in interest rates**	***IF NO***		The government may face project failure after implementation starts, so being required to pay compensation for capital investment, being forced to assume the project, or renegotiate an interim financial solution and then re-tender the project (possibly under worst cost conditions for government).		Proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project. Establishment of adequate qualification requirements, bid bonds and performance bonds will discourage adventures from bidding for PPPs.	
5.4	**Risks related to excess volatility of nominal exchange rate**							
5.4.1	**Has the government accepted contractual responsibility for excess volatility of nominal exchange rate?**		Yes					
	No risks identified		***IF NO***					

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**Government paying compensation for excessive volatility of exchange rate**	*IF YES*		If government contractually accepted some exchange rate risk, fiscal support may be needed in the form of compensation		Proper consideration of exchange rate risk may lead to better risk sharing and proper use of hedging mechanisms	
5.4.2	**Is the private partner able to cope with excess volatility of nominal exchange rate?** The private partner is able to cope with excess volatility of nominal exchange rate							
	No risks identified		*IF YES*					
	The private partner is unable to cope with excess volatility of nominal exchange rate							
	RISK	**The private partner unable to cope with excess volatility in nominal exchange rate**	*IF NO*		The government may have to renegotiate under stress, or face project collapse and being required to pay compensation for capital investment, having to assume the project and then re-tender under different risk allocation scheme		Proper consideration of exchange rate risk may lead to better risk sharing and proper use of hedging mechanisms	
6	**FORCE MAJEURE**							

	RISK IDENTIFICATION		LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
6.1	**Projects are always exposed to force majeure risks**						
	RISK	**The government paying compensation, adjusting or even terminating the contract due to force majeure events**	The exact list of events to be considered force majeure should be tailored for each project	Full or partial compensation by the government may even force the government to buy the assets or assume debt		The scope of the force majeure events should be clearly stated in the contract, considering the legal requirements and specific project conditions; the contract should create incentives for the private partner to get insurance against some risks (when insurance is available at a reasonable cost), and to effectively manage risks by designing assets and managing services in ways that minimize probability of occurrence and size of impact	
7	**MATERIAL ADVERSE GOVERNMENT ACTIONS (MAGA)**						
7.1	**Projects are always exposed to**						

RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	MAGA events (also known as "political force majeure")						
	RISK	**The government paying compensation, adjusting or even terminating the contract due to acts and omissions by public entities**	a clear definition of events to be considered MAGA should be included in the contract	Compensation by the government may even force the government to buy the assets or assume debt.		Contract managers should monitor the several channels through which government' actions and omissions can affect the project; during the life of the contract, executive government actions and policy changes should be carefully evaluated (by the contract manager and the fiscal management team) for assessing impact on the PPP contract	
8	**CHANGE IN LAW**						
8.1	**Projects are always exposed to changes in law**						

RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**The government is paying compensation, adjusting or even terminating the contract due to changes in law**	The PPP contract should identify changes in law that require compensation by government, and those that do not require compensation; changes in law that benefit the private partner should also be considered	Compensation by the government, or even the need to buy the assets or assume debt; change in law may also require the private partner to compensate government		Proper evaluation of the efficiency of legislation and public policies.	
9	**REBALANCING OF CONTRACT FINANCIAL EQUILIBRIUM**						
9.1	**Does the legal framework or contract provide for a mechanism of re-balancing financial equilibrium?** No risks from the legal framework or contract requiring reinstatement of financial equilibrium						
	No risks identified	***IF NO***					
	There are risks from the legal framework or contract requiring reinstatement of financial equilibrium						

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	RISK	**The government is paying compensation and/or terminating the contract due to requirement to reinstate financial equilibrium.**	*IF YES*		The government is paying compensation or cancel the project.		If prescribed in the legal framework, the PPP contract should restrict its application to the cases of force majeure, MAGA, avoiding its application to a wider range of situations.	
9.2	**Does the contract provide for any kind of rate-of-return guarantee?** No risks from contract guaranteeing a rate of return to the private partner							
	No risks identified		*IF NO*					
	The contract guarantees a rate of return to the private partner							
	RISK	**The government is paying compensation and/or terminating the contract due to contract guaranteeing a rate of return for the private**	*IF YES*		The government is paying compensation or cancel the project.		Avoiding clauses and expectations, on a guaranteed level of project rate of return, or shareholder's rate of return.	
9.3	**Does the contract include hardship clauses?** No risks from contract including hardship clauses							
	No risks identified		*IF NO*					

	RISK IDENTIFICATION			LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
	The contract includes hardship clauses							
	RISK	**The government is paying compensation and/or terminating the contract due to excessive protection against some hardships**	*IF YES*		The government is paying compensation or cancel the project.		Hardship clauses, if needed, should be very precise and strict. Alternative methods to reduce excessive private sector risks should be considered: insurance, future markets, and other hedging mechanism.	
10	**RENEGOTIATION**							
10.1	**Is the renegotiation of the contract a legal possibility?**							
	RISK	**Opening an uncontrolled renegotiation process, under information asymmetry and no competitive pressure**	*IF YES*		Opening a Pandora's Box, jeopardizing economic efficiency, by allowing the private to transfer to the government costs and risk that had originally been accepted by the private partner. The fiscal impact will depend on the government's ability to manage the renegotiation process.		Having a strategic view of PPP contract management and creating capacity to renegotiate are paramount.	

RISK IDENTIFICATION				LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
11	CONTRACT TERMINATION							
11.1	**Does the contract clearly define the reasons for early termination and their consequences?** The contract clearly defines reasons and consequences for early termination.							
	No risks identified		*IF YES*					
	The contract does not clearly define reasons and consequences for early termination.							
	RISK	**Entering in early termination process without clear knowledge of their consequences and procedures**	*IF NO*		Lack of clarity on causes vis-a-vis consequences on early termination increases the private partner's bargaining power, leading to increases in the cost of termination; it can also prevent the government from cancelling non-performing contracts, or generate incentives for governments to nationalize a project or assets without proper assessment of the cost of that decision		Contracts should include a clear definition of the reasons for early termination (e.g. under-performance of private partner, public interest, force majeure) and present its consequences, in terms of transfer of assets and responsibilities, namely financial compensation for capital investment; compensation should vary according to the party responsible for the early	

	RISK IDENTIFICATION		LIKELIHOOD	FISCAL IMPACT	RISK RATING Likelihood*Impact	MITIGATION STRATEGY Is it in place?	PRIORITY ACTIONS
						termination	
11.2	**Does the contract clearly define procedures for transfer of assets and responsibilities at the end of the contract?** The contract clearly defines procedures for transferring assets and responsibilities						
	No risks identified	***IF YES***					
	The contract does not clearly define procedures for transferring assets and responsibilities						
	RISK **Terminating the contract without a clear understanding of transfer processes, including financial consequences**	***IF NO***		The government may need to pay for stock of inputs or outputs. Human resources issues may imply financial compensation or increased current expenditures. Licenses needed to continue operation may create fiscal surprises.		Contracts should include a clear definition of the termination process and all its financial consequences. Identified gaps in the contract should be solved by having both parties signing transfer protocols detailing the rules.	

Appendix C: Legal Framework for Disclosure and Implications for PPP Disclosure

Legal Framework for Disclosure and Implications for PPP Disclosure

Article	Text	Implication
Constitution, 1999		
Article 39(1 and 2)	Freedom of expression is inviolable.	Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference, and own, establish and operate any medium for the dissemination of information, ideas and opinions. This allows the public to openly discuss and opine on PPPs.
Article 39(3)	Exceptions to access to information.	Protects against access to information in certain circumstances when that information was received in confidence, when disclosure could undermine the authority and independence of courts, or when disclosure could impose restrictions upon persons holding office under the Government of the Federation or of a State. This may prevent disclosure of some confidential information as it pertains to PPPs, including commercially sensitive information.
Freedom of Information Act, 2011		
Article 1	Right of access to information.	Provides right of any person to access or request information in the custody or possession of any public official, agency, or institution.
Article 2(1-4) and 9	Maintenance of information.	A public institution should ensure it records, keeps, and maintains all information about its activities and operations to facilitate public access to such information. This information should be made available to the public through various means, including print, electronic and online sources, and at the offices of such public institutions.
Article 2(7)	Definition of public institutions.	Public institutions are all authorities whether executive, legislative or judicial agencies, ministries, and extra-

		ministerial departments of the government, and all corporations and companies in which government has a controlling interest, and private companies utilizing public funds, providing public services or performing public functions. Note that this definition would apply to PPP project companies.
Article 4 and 6	Timeline for disclosure.	Requested information should be provided to the applicant, or denied (if justified), within 7 days. Extensions to the time limit can be exceptionally approved under certain circumstances.
Article 7, 10, and 20	Denial of disclosure and penalties for non-disclosure	An applicant has the right to challenge a denial of information in Court. If a case of wrongful denial of information is proven, the defaulting officer or institution is liable to a fine of N500,000. Destruction of information is liable to a minimum of 1-year imprisonment.
Articles 11 to 19	Exceptions to right to information.	Access to information may be denied if such disclosure could impact law enforcement proceedings, facilitate the commission of an offense, or reveal trade secrets and commercial or financial information. Access to certain personal information, including professional client privileges may also be denied.
Article 28	Relationship to Official Secrets Act	Classified information under the Official Secrets Act may still be disclosed, subject to the exceptions on right to information laid out in the FOI Act.
Article 29	Reporting on access to information requests.	Each public institution shall submit an annual report to the Attorney General on access to information requests. The Attorney General shall then submit an aggregated report to the National Assembly.
Official Secrets Act, 1962		
Article 9	Classified material.	“Classified matter” means any information that is not to be disclosed to the public and whose disclosure would be prejudicial to the security of Nigeria.
Nasarawa State Fiscal Responsibility Law, 2013		
Article 2	Powers of the Fiscal Responsibility Commission.	Commission has the power to i) compel any person or government institution to disclose information relating to public revenues and expenditure; ii) investigate any person for violating the Act; and iii) report any violations to the Attorney General of the State for prosecution. This may

		allow disclosure of information relating to government commitments to PPPs.
Nasarawa State Debt Management Law, 2021		
Section 5	Functions of the State Debt Management Office	Debt Management Office shall maintain a reliable database of all instruments issued, loans taken or guaranteed by the State Government or Local Government or any of their agencies. This may facilitate the disclosure of information relating to government commitments to PPPs.
NASIDA Law, 2020 (First Schedule)		
Section 8(2)	PPP Priority List	Requires the Board to maintain a PPP priority list that identifies specific projects that are desirable, achievable and viable for execution as PPP projects.
Nasarawa Public Procurement Law, 2020		
Section 25(2)	Equal information to bidders.	Under open competitive bidding the procuring entity offers equal simultaneous information and opportunity to all bidders.
Section 53 (4)	Confidentiality of bids.	The procuring entity shall treat proposals and any negotiations on selection procedure as confidential and avoid the disclosure of their contents to competing consultants.

Appendix D: Summary of Specific Disclosures for PPP Projects

No.	Document	Content	Creator	Approver	Time (in calendar days where relevant)
Disclosure of information at project identification					
1.	PPP projects pipeline	List of projects approved for development including brief project description, contracting authority, sector, and estimated project cost	CA	NASIDA	Within 30 days of approval for inclusion in the PPP project pipeline
2.	Basic project information	Project name Location Sector Contracting Authority Project value Project rationale Description of asset Services to be provided Estimated demand to be served annually Rationale for selecting the PPP mode Indicative investment size Pre-feasibility study report	CA	NASIDA	Within 30 days of approval of the Feasibility Studies
3.	Project progress tracking	A section on the web-based platform that will reflect actual dates of achievement of key milestones: Date of inclusion in the published projects pipeline Date of appointment of transaction advisors Date of OBC approval Date of procurement milestones, such as EOI, prequalification of bidders, RFP, selection of preferred and reserved bidder, date of issuance of FBC, date of FBC approval, and so forth Date of contract signing Date of financial close Beginning of construction End of construction Commencement of operation and maintenance Expiry of contract expiry	NASIDA	NASIDA / CA	Immediately after the information becomes available
Disclosure of information during project preparation					

4.	Project preparation documents	Strategic needs assessment, technical analysis, risk matrix, financial model, economic analysis, and management arrangement, and OBC	CA	NASIDA	Within 30 days of approval by the NASIDA Board.
Disclosure of information during procurement					
5.	EOI		CA	NASIDA	Following approval and publication of EOI
6.	List of shortlisted bidders		CA	NASIDA	As soon as pre-qualification shortlisting is completed, and pre-qualified bidders have been contacted
7.	RFP		CA	NASIDA	Immediately after close of bids
8.	Announcement of selected bidder	Details of the preferred bidder	CA	NASIDA	Immediately after approval
9.	FBC		CA	NASIDA	Within 30 days of final approval
Disclosure of information following execution of PPP contract (commercial close)					
10.	Project Summary	Project scope and nature Parties to the PPP contract Government support Project value Tariffs and pricing Termination clauses Hand-back provisions Key performance indicators with agreed target levels	CA	NASIDA	Within 30 days of execution of project contract (commercial close)
11.	Financial structure of project	Debt-to-equity ratio of the project company Debt and equity providers Senior debt/ bond financing Mezzanine funding and quasi-equity Government support	CA	NASIDA	Within 30 days of financial close.
12.	Project documents	All non-confidential project documents including PPP contracts and agreements	CA	NASIDA	Within 30 days of execution of project contract (commercial close)
13.	Renegotiations	Summary information on each renegotiation All non-confidential renegotiated PPP contracts and agreements	CA	NASIDA	Within 30 days of signature of renegotiated contract
Performance disclosure throughout contract period					
15.	Performance Information	Performance of the project company on Key Performance Indicators (KPIs) against agreed	CA	NASIDA	Within one year of financial close, updated annually.

		targets (including information on construction milestones, key financial information and information on performance failures, if any) Audit reports Audited Financial Statements Private party reports Independent Engineer reports			